

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 2ND OF NOVEMBER,  
2 2001, AT 10:30 A.M.:

3 .

4 CHAIRMAN: Good morning everyone.

5 .

6 MR. HANRATTY: Good morning, Sir.

7 .

8 MS. DILLON: Good morning, Sir.

9 .

10 Mr. Desmond Turvey, please.

11 .

12 MR. DESMOND TURVEY, HAVING BEEN SWORN, WAS EXAMINED AS  
13 FOLLOWS BY MS. DILLON:

14 .

15 1 Q. MS. DILLON: Good morning, Mr. Turvey.

16 A. Good morning.

17 2 Q. You are a qualified chartered accountant. And between  
18 the years 1972 and 1984 you worked in that capacity for  
19 Messrs. Finnegan Menton?

20 A. I did.

21 3 Q. Is it the position that during that period you provided  
22 a dual function, in that you did the work of an  
23 accountant, insofar as the business was concerned, and  
24 you also provided certain services to Mr. John Finnegan  
25 in his personal capacity?

26 A. I did.

27 4 Q. And Ms. O'Neill, when she gave evidence to the  
28 Tribunal, described a system that she had inherited in  
29 connection with the Foxtown documents.

30 .

1 Ms. O'Neill told the Tribunal, if I can summarise her  
2 evidence, which was that when she became Mr. Finnegan's  
3 personal assistant, she inherited a system whereby the  
4 records or documents, such as they were, in connection  
5 with Foxtown were not kept. They were either returned  
6 to Guernsey or they were shredded.

7 .

8 Do you know anything about that system?

9 A. No. While I was doing it, the records, any records I  
10 got in connection with Foxtown, I retained. But they  
11 wouldn't have been very many. The system of destroying  
12 and sending back must have happened after I left in  
13 1984.

14 5 Q. At that time, while you were there, was there a Foxtown  
15 file in Finnegan Menton?

16 A. In Finnegan Menton, in the building, yes, but not  
17 within Finnegan Menton's filing system.

18 6 Q. There was - Ms. O'Neill has described a separate filing  
19 system in connection with Mr. John Finnegan's personal  
20 affairs?

21 A. That's right.

22 7 Q. And was it within that system that the Foxtown records  
23 were kept?

24 A. Yes.

25 8 Q. And was there a Foxtown file maintained at that time  
26 while you were there?

27 A. Yes, it was - it would have been my file. I would have  
28 opened the file. And I was the one who would have used  
29 it --

30 9 Q. You were the one who?

1 A. Would have used that file.

2 10 Q. And was this file a file similar to the Dudgeons file,  
3 or are you talking about the Dudgeons file?

4 A. It was similar.

5 11 Q. But it was not the Dudgeons file?

6 A. No.

7 12 Q. So that while you were there, there was maintained  
8 separately a Foxtown Investments file dealing with  
9 correspondence and records in relation to Foxtown  
10 Investments?

11 A. Yes.

12 13 Q. And can you briefly outline to the Sole Member of the  
13 Tribunal the type of documents that would have been on  
14 that file?

15 A. Basically through - one would be bank statements of  
16 Foxtown's that I obtained, and the other would be  
17 correspondence with Dudgeons.

18 14 Q. And how did, or from where did the bank statements for  
19 Foxtown Investments come?

20 A. To my recollection, they came from Dublin, but probably  
21 originated in Guernsey.

22 15 Q. And did you - were these bank statements coming in on a  
23 regular basis?

24 A. I can't remember whether they were regular or not, but  
25 I think I probably requested them a lot of the time,  
26 when I needed them.

27 16 Q. And when you requested them, they were furnished?

28 A. Yes.

29 17 Q. And your recollection is that they were furnished  
30 through Guinness & Mahon in Dublin?

1 A. Yes.

2 18 Q. Were those bank statements maintained on a separate  
3 file to the Dudgeons file?

4 A. They would have been, yes.

5 19 Q. By the time - from the time that you were there, to the  
6 time you left, from '72 to '84, would there have been  
7 in that file a complete record, or as complete a record  
8 of the Foxtown bank records as you had acquired?

9 A. There would have been, yes.

10 20 Q. Were you running the Dudgeons share file at the same  
11 time as the Foxtown Investments file?

12 A. I was.

13 21 Q. Was - were there any other files in John Finnegan's  
14 personal files dealing with Foxtown or Foxtown  
15 Investments, other than those two files?

16 A. I don't think so.

17 22 Q. You think it was just limited to the two files?

18 A. I think that I had them all.

19 23 Q. And in the main, would the file of Foxtown Investments  
20 have comprised of copies of the bank statements?

21 A. Yes.

22 24 Q. Was there correspondence from Guernsey, or Guinness &  
23 Mahon in Dublin on that file?

24 A. There would have been correspondence, certainly, from  
25 Guinness & Mahon, Dublin. Whether it was on that file  
26 or on the Dudgeons file, I can't quite remember,  
27 because a lot of it would have had to do with stocks  
28 and shares, purchases and sales of stocks and shares.

29 25 Q. Yes. The Tribunal has been furnished with a number of  
30 documents that the Tribunal has been told emanated from

1 the Dudgeons file, and you have seen those documents, I  
2 think, Mr. Turvey, and the bank statements that are  
3 attached to that file?

4 A. I have.

5 26 Q. You were asked by the Tribunal to prepare a statement  
6 in connection with certain notes that are made on those  
7 statements, on those bank statements?

8 A. I was.

9 27 Q. And if I can ask you, first of all - if I could ask you  
10 briefly about some of the statements themselves. We'll  
11 give you a copy, Mr. Turvey, of the statements, because  
12 I referred to them by - the Tribunal, by page number,  
13 although they won't be coming up on screen.

14 .

15 First of all, if I could ask you to look at a document  
16 which has the page reference 4827. It's probably the  
17 first page on the documents.

18 A. Yes.

19 28 Q. At the top. That's a copy - it's simply entitled  
20 "Statement", and then beneath that "Foxtown Investments  
21 Limited"?

22 A. Yes.

23 29 Q. And there is nothing on the statement to indicate the  
24 bank, for example, in which the account was held?

25 A. That's correct.

26 30 Q. Can you explain how it was that the statement was  
27 furnished in this particular format?

28 A. I can't, but that's the format that I frequently got.

29 I don't think I ever saw a statement with the bank, the  
30 Guernsey bank on the heading of it.

1 31 Q. Yes. And if you look at the next page, which is 4828,  
2 which again is a bank statement entitled "Statement",  
3 and beneath that "Foxtown Investments Limited". In the  
4 bottom of it, "Guinness & Mahon Limited, 17 College  
5 Green, Dublin 2" is printed?

6 A. Yes.

7 32 Q. That would suggest that the statement emanated from  
8 College Green?

9 A. That's as I always understood it.

10 33 Q. The Tribunal understands, from the evidence of Mr.  
11 Finnegan, that the bank account of Foxtown Investments  
12 was, however, maintained in Guernsey?

13 A. I am sure it must have been, but these statements  
14 always came from Dublin, as far as I know.

15 34 Q. I see. And if we move through the documents, you will  
16 see that the address of Foxtown Investments Limited is,  
17 at that time, given in Jersey in the Channel Islands.  
18 And as we move through the statements, and if you move  
19 to the statements at the end, at page 4842 --

20 A. Yes.

21 35 Q. -- you will see again that this is a statement without  
22 any heading on it, and there is nothing to indicate the  
23 bank in which this account was maintained.

24 A. That's true.

25 36 Q. And you will see at the top of 4842, written in, in  
26 handwriting is the reference "A/K."

27 A. Yes.

28 37 Q. Do you have any understanding of what "A/K" stands for?

29 A. I don't know what the "A" and the "K" meant, but "A/K"  
30 meant - it was a code for Foxtown. I don't know the

1 origin of the "A" and the "K". I don't know what they  
2 stood for. But "AK" was Foxtown.

3 38 Q. Was that a designation that was given to Foxtown by the  
4 bank?

5 A. Yes.

6 39 Q. It wasn't a designation that was given to it, for  
7 example, by you when you were working on these  
8 accounts?

9 A. No.

10 40 Q. And you see beside the word "Details" there is written  
11 "AK/5"?

12 A. Yes.

13 41 Q. And what is your understanding of the designation of  
14 "AK/5"?

15 A. I can only assume, I think there were several AKs, that  
16 they were different deposit accounts, seven day notice  
17 or call, or 30 day notice. And they were given - you  
18 will find transfers from one bank account to another  
19 here. And I think there was a series of accounts all  
20 in Foxtown's name.

21 42 Q. And the page that you are looking at, which is the bank  
22 statement, other than the reference "AK" and "AK/5", it  
23 does not indicate that this is a Foxtown Investments  
24 Limited account, isn't that right?

25 A. That's right.

26 43 Q. And if you move on to the next page, 4843.

27 A. Yes.

28 44 Q. Which - this is entitled "Statement" with the words  
29 beneath that "Guinness & Mahon (Guernsey) Limited A/K."

30 A. Yes.

1 45 Q. In other words, there is nothing on this document, even  
2 though it attributes the statement being Guinness &  
3 Mahon Limited in College Green, there is nothing on the  
4 statement to indicate the holder of the account, other  
5 than it is a Guinness & Mahon (Guernsey) Limited  
6 account A/K?

7 A. That's right.

8 46 Q. So it would appear at some stage that a decision was  
9 taken by the financial institution involved, that  
10 rather than using the names of the account holder, in  
11 this case Foxtown Investments, to designate it by  
12 reference to a number?

13 A. It would appear that way, yes.

14 47 Q. Was this something that was done by the financial  
15 institution in question, as far as you know, or was it  
16 - it wasn't something that was done by you, for  
17 example?

18 A. No.

19 48 Q. It's not something that you requested?

20 A. Definitely not.

21 49 Q. All right. If I could ask you to look, Mr. Turvey, at  
22 page 4837. And I think the copy of page 4837 is quite  
23 a poor copy.

24 .

25 If you move --

26 A. Sorry, I haven't quite got to it.

27 50 Q. 4837.

28 A. Yes.

29 51 Q. If you move down through the page, and it is a poor  
30 quality copy, you will see "November '77, draft in



1 favour of", and beneath that, "Cheque issued in favour  
2 of Bank of Ireland." And I think the amount there is  
3 ú33,333.33?

4 A. I can't read that on this document.

5 52 Q. If you'd like to refer back to the explanation that you  
6 furnished in relation to this document, your own  
7 explanation.

8 A. The next sheet with the 33,000 on it, on the 17th of  
9 November, is that the one you mean?

10 53 Q. Yes.

11 A. Yes. Yes, I have that here.

12 54 Q. If you see that on the 10th of the 11th, on the next  
13 page, which is 4838, there is a withdrawal in the sum of  
14 ú33,333.33.

15 A. Yes.

16 55 Q. With the word "Monkstown" written beside it?

17 A. Yes.

18 56 Q. And that seems to refer to the reference on page 4837

19 "draft in" - "Cheque in favour of Bank of Ireland".

20 And the amounts are the same?

21 A. I couldn't see the amount, but the dates are the same,  
22 certainly, so I assume it is.

23 57 Q. On page 3848 besides the withdrawal of 33,333.33, the  
24 words "M'Town" are written?

25 A. That's right.

26 58 Q. Is that your handwriting?

27 A. It is.

28 59 Q. What is your understanding of that debit on the  
29 account?

30 A. My understanding was - I was obviously told, or I asked

1 when I got this statement what these items were for, if  
2 I didn't know that, and I would have asked John  
3 Finnegan, and he would have told me that was for  
4 Monkstown. And that's my abbreviation for Monkstown.

5 60 Q. These bank records were shown on a Dudgeons shares  
6 file?

7 A. Yes.

8 61 Q. And what would be the reasoning behind, or what was the  
9 necessity for dealing with these transactions which  
10 clearly didn't relate to the sale or purchase of  
11 shares?

12 A. Well, I was obviously reconciling, to the best of my  
13 ability, entries on these bank accounts with my  
14 records. And a lot of other entries on that page, as  
15 you will see, did relate to Dudgeons, their purchases  
16 and sales of shares, and dividends credited, et cetera.  
17 Far more entries relating to Dudgeons' affairs than  
18 there are entries like this Monkstown one on the sheet.

19 62 Q. And were these entries, this entry and the other  
20 entries that we are looking at, were these made at or  
21 around the time that you received the statements?

22 A. They would have been, yes. They would have been - you  
23 know, I mightn't have received the statements for a  
24 month or so after the event, but they were --

25 63 Q. But insofar as these entries contain your notes written  
26 beside certain withdrawals and lodgements, is it the  
27 position that the explanation for those withdrawals and  
28 lodgements were furnished to you by Mr. John Finnegan?

29 A. Well, when they weren't related to stocks and shares,  
30 yes.

1 64 Q. And this particular withdrawal of ú33,333.33 was  
2 attributed by Mr. Finnegan at the time you made that  
3 annotation, to being a withdrawal in connection with  
4 Monkstown?

5 A. Yes.

6 65 Q. Other than the information that was furnished to you by  
7 Mr. Finnegan, did you have any way of independently  
8 verifying the destination of these funds?

9 A. No. Certainly not in the case of Monkstown.

10 66 Q. And if you move up that page, Mr. Turvey, still on page  
11 4838, you see, further up, on the 13th of the 10th,  
12 1977, a withdrawal in the sum of ú10,000, with the  
13 initials "F.H" written beside it?

14 A. Yes.

15 67 Q. Can you explain what that transaction was in connection  
16 with?

17 A. That was a cheque drawn on Foxtown and lodged to an  
18 account in the Bank of Ireland called something  
19 "holdings". I can't remember the name - I can't  
20 remember what the "F" stands for, but it was something  
21 "holdings", it was a limited company - sorry, it was a  
22 non-limited company, and it had an account in the Bank  
23 of Ireland, St. Stephen's Green.

24 68 Q. What was the purpose of that company?

25 A. It was basically John Finnegan used it for his personal  
26 expenses. He lodged money to it and money was drawn  
27 from it.

28 69 Q. And if you move further up the page, you will see  
29 another withdrawal on the 14th of the 6th, 1977, in the  
30 sum of ú5,000, the designation for that is also "F.H.".

1 Was that a similar transaction?

2 A. Absolutely.

3 70 Q. And how were these transactions effected, Mr. Turvey?

4 A. The account in question, if it was running short of  
5 funds, John would have authorised me to top-up the  
6 funds by asking for a remittance from Guinness & Mahon  
7 in Dublin, who in turn must have got the remittance  
8 from Guernsey or Jersey, or whichever it was at the  
9 time.

10 71 Q. And on the credit side of that page, at the bottom,  
11 there is an entry, "10,000 credit on the 17th of the  
12 11th" with the name "J Kiernan" beside it?

13 A. Yes.

14 72 Q. Can you explain that lodgement?

15 A. Well, I can explain who the payee was, but I haven't  
16 the remotest idea what the purpose was. And I see in  
17 my barely deciphered letter, see a letter. I don't  
18 have a letter, I don't remember the letter, but the  
19 J Kiernan was Joe Kiernan who was a solicitor in Dublin  
20 at the time. He is now dead.

21 73 Q. I think this transaction is also referable to notes  
22 that you made on two pages of handwritten documentation  
23 that I've come - I'll come to deal with in more detail.

24 It's at page 4974. Sorry, 4975.

25 A. I only go up to 48 here. Sorry.

26 74 Q. Sorry. They are being handed to you now.

27 (Document handed to witness.)

28 A. Thank you.

29 75 Q. If you look at page 4975.

30 A. Yes.

1 76 Q. And if you scroll down to the centre of that page, you  
2 will see the initials "JJT" and the date, the 16th of  
3 November, 1977?

4 A. Yes.

5 77 Q. And a lodgement there of ú10,000?

6 A. Yes.

7 78 Q. Now, I think your position in relation to the initials  
8 on this document, and the preceding page, is that "JJT"  
9 stands for Joe, John, Tom?

10 A. That's right.

11 79 Q. And that's a reference to Mr. Joseph McGowan, Mr. John  
12 Finnegan and Mr. Tom Brennan?

13 A. That's right.

14 80 Q. So that when you were making this entry on this  
15 document, you were attributing that ú10,000 credit to  
16 being a credit in connection with Mr. Brennan, McGowan  
17 and Finnegan?

18 A. That's right.

19 81 Q. Yet, on the bank statement that is at page 4838, you  
20 have beside that entry, you have "J Kiernan. See  
21 letter"?

22 A. Yes.

23 82 Q. Can you assist at all as to what that credit was in  
24 connection with?

25 A. Well, it looks very much as if it's the same item in  
26 both cases, it's a lodgement to the account. There is  
27 a one day difference in the dates, which I am sure is  
28 not significant. So I can only assume that when I, on  
29 Document 4838, when I put those notes there, all I knew  
30 was that the money had come from, apparently from Joe

1 Kiernan, but by the time I wrote this summary later of  
2 the account, which would have been at a different time,  
3 I probably found out that it was through, or in  
4 connection with Joe McGowan, Tom Brennan and John  
5 Finnegan, that I knew - I simply put their - the name  
6 "Kiernan" on the first document because it must have  
7 come with a Kiernan covering letter. And I decided on  
8 the second statement, which, when I was doing the  
9 details, that I would put the source, the real source,  
10 the ultimate source, John, Joe and Tom.

11 .

12 You know, there was two things, you had a letter  
13 enclosing a cheque, and I put the original, the letter  
14 on one document, and I put what the cheque was for,  
15 what it was about on the other.

16 83 Q. So was it your understanding that that credit of  
17 ú10,000 to the account of Foxtown was in connection  
18 with some transaction involving Mr. Brennan, Mr.  
19 McGowan and Mr. Finnegan?

20 A. It was.

21 84 Q. Do you have any idea what transaction that was?

22 A. I don't.

23 85 Q. If I could ask you to look at page 4844, Mr. Turvey.

24 A. Yes.

25 86 Q. You will see that the third entry on that statement is  
26 a debit on the 12th of the 7th, 1978, in the sum of  
27 ú33,333.33.

28 A. Yes.

29 87 Q. And you will see that beside that, in handwriting, are  
30 the initials "N.PK"?

1 A. Yes.

2 88 Q. Is that an abbreviation for Newtownpark Avenue?

3 A. It is.

4 89 Q. That again is your handwriting?

5 A. It is.

6 90 Q. From whom - does that mean, then, that this was a  
7 withdrawal in connection with Newtownpark Avenue?

8 A. It does, yes.

9 91 Q. From whom would you have obtained that information?

10 A. More than likely from John Finnegan.

11 92 Q. And if you move down through the credit column of that,  
12 you will see there is a credit of ú20,000?

13 A. Yes.

14 93 Q. On the 6th of the 9th, 1978?

15 A. Yes.

16 94 Q. Attributed to J Maguire, "balance"?

17 A. Yes.

18 95 Q. Can you explain to the Tribunal what that - first of  
19 all, who is Mr. Maguire?

20 A. It was John Maguire, who is now dead, and whose father,  
21 I think, was the owner, had been the owner of the house  
22 at Newtownpark Avenue.

23 96 Q. This is the vendor of the property at Newtownpark  
24 Avenue, is that right?

25 A. That's right.

26 97 Q. And this is the gentleman who sold the lands at  
27 Newtownpark Avenue to the companies beneficially owned  
28 by Mr. Brennan, Mr. McGowan and Mr. Finnegan?

29 A. Yes.

30 98 Q. Victa?

1 A. Yes.

2 99 Q. If you move further down through that column, you will

3 see that on the 28th of the 11th, 1978, there is a

4 lodgement in the sum of ú5,000?

5 A. Yes.

6 100 Q. And beside that are the initials "J McG, H.CT". Can

7 you explain that lodgement to the Tribunal?

8 A. Well, the "H.CT", I think, refers to Harcourt Holdings,

9 which was a company, a public company in those days.

10 And as far as I recollect, Harcourt Holdings' shares

11 were bought and - if you look further back on that, up

12 at the 11th of August you will see "ú20,000 debit -

13 Harcourt Holdings."

14 .

15 Now, there is obviously a connection between the two of

16 those. What the connection is, I don't know.

17 101 Q. Are you assuming the connection, Mr. Turvey, because of

18 the fact that there is a debit on the 11th of the 8th

19 and a lodgement of a similar amount on the 6th of the

20 9th, or the 30th of the 8th? It's not quite clear.

21 A. I am, yes. But I am - no, I am not certain that I am,

22 because on the lodgement on the 30th of the 8th, I see

23 "J Maguire - balance." "BAL" is balance.

24 .

25 Now, if the purchase was for 20,000, I don't know how

26 the - and the credit came in, the lodgement came in for

27 20,000 as well, I don't think they are related, because

28 there is no question of a balance.

29 102 Q. And you see immediately beneath that ú5,000 there is a

30 lodgement of ú67,278.54?



1 A. I do.

2 103 Q. And the words "B Cristle" are beside that?

3 A. Yes.

4 104 Q. Is that a reference to Bedell & Cristin, the Jersey  
5 firm of solicitors?

6 A. It is.

7 105 Q. And the Tribunal has learned that Mr. Finnegan was in  
8 receipt of a payment of ú67,278.54 as a result of the  
9 distribution that took place in Jersey post the  
10 Newtownpark Avenue transaction?

11 A. Well, I wasn't aware of what that - at least I am not  
12 aware now of what that ú67,000 was for. If you say  
13 that's what it is, I accept that.

14 106 Q. Well, that is the amount that was distributed to - that  
15 was to be distributed to Mr. Finnegan after the  
16 transaction.

17 .

18 If we could have page 220, please.

19 .

20 This is a letter to Chase Bank from Bedell & Cristin  
21 Solicitors, relating to the distribution of funds that  
22 were transferred to Jersey. And if you look at  
23 paragraph 3 of that letter, you will see:

24 .

25 "I would be grateful if you would almost immediately  
26 telegraphically transfer the sum of 67,278.54 to  
27 Guinness & Mahon (Guernsey) at St. Julian's Court, St.  
28 Peter Port for the account of Foxtown Investments  
29 Limited."

30 A. Yes.

1 107 Q. If we could scroll that back down to see the date, and  
2 you will see that that is the 30th of November, 1978?

3 A. Yes.

4 108 Q. And you will see on the document in front of you that  
5 the lodgement to this particular account is the same  
6 sum, ú67,278.54?

7 A. Yes.

8 109 Q. Even though the document at page 4844 does not carry  
9 any identifying designation in terms of bank account or  
10 jurisdiction, isn't that right?

11 A. That's right.

12 110 Q. If I could ask you to look now at page 4845.

13 A. Yes.

14 111 Q. Mr. Turvey, you will see this is a replication of 4844.

15 A. Well, partly, yes.

16 112 Q. Partly a replication of it.

17 A. Yes.

18 113 Q. This, again, is - if I can call it, an unattributed  
19 bank statement, in that the name of the bank or the  
20 account holder does not appear on the face of the  
21 statement?

22 A. That's right.

23 114 Q. And it contains the initials "AK" again?

24 A. Yes.

25 115 Q. If you look down to the ú33,333.33 on the 12th of the  
26 7th --

27 A. Yes.

28 116 Q. -- where on page 4844 what's initialled beside that is  
29 "N.PK"?

30 A. Yes.

1 117 Q. What is initialed on page 4845 was "Monkstown", which  
2 is struck out and beside that is "N.PK"?

3 A. That's right.

4 118 Q. It looks, therefore, as if the original destination of  
5 the 33,333.33 on 4845 was Monkstown?

6 A. It was.

7 119 Q. And that that is then struck out and Newtownpark Avenue  
8 inserted instead?

9 A. That's right.

10 120 Q. Does that indicate, suggest to you that you might  
11 originally have been told that that withdrawal of  
12 ú33,333 was in connection with Monkstown?

13 A. Not necessarily. I may have assumed that it was in  
14 connection with Monkstown and subsequently been told  
15 that it wasn't.

16 121 Q. Why would you have assumed that it was in connection  
17 with Monkstown?

18 A. Well, the figure of 33,000 has already cropped up, if I  
19 recollect rightly, in connection with Monkstown.

20 122 Q. Yes. If you'd like to go back to page 4838. You will  
21 see that the Monkstown withdrawal, or the withdrawal  
22 that's attributed to Monkstown took place on the 10th  
23 of November, 1977.

24 A. Yes.

25 123 Q. Whereas the withdrawal that is here attributed to  
26 Newtownpark Avenue is taking place on the 12th of the  
27 7th, 1978?

28 A. That's right.

29 124 Q. It's unlikely, therefore, Mr. Turvey, I suggest to you,  
30 that you would have made a mistake?

1 A. I don't think it's unlikely at all. I think I may  
2 simply have got this document, initially looked at it,  
3 recognised the figure of ú33,333, put down "Monkstown"  
4 on it, and then found out later that it was wrong.  
5 Remember, these are only my notes to try and apprise  
6 myself of what was going on. It was not beyond me to  
7 make a mistake.

8 125 Q. So it's your belief that that's how that entry came to  
9 be made?

10 A. I would think so.

11 126 Q. If you could stay with page 4845, and looking at the  
12 credit column, you will see a lodgement of ú20,000 -  
13 sorry, that's the same lodgement that we've just looked  
14 at immediately - sorry, I meant to look at the debit  
15 column.

16 A. Yes.

17 127 Q. And you will see on the 28th of the 11th there is a  
18 withdrawal of ú50,000?

19 A. Yes.

20 128 Q. And beside that are the words "B'VUE"?

21 A. That's right.

22 129 Q. Is that an abbreviation of Bellevue?

23 A. It is.

24 130 Q. Again, were you informed by Mr. Finnegan that that  
25 withdrawal of ú50,000 was attributable to some  
26 transaction in connection with Bellevue?

27 A. I must have been, because I wouldn't have known the  
28 name otherwise.

29 131 Q. Yes. Were you aware yourself in a general way that  
30 Mr. Finnegan was involved in commercial transactions

1 with Mr. McGowan and Mr. Brennan?

2 A. I was.

3 132 Q. Was it Mr. Finnegan who gave you the land designation  
4 that's attributed to on these documents?

5 A. It would have been. Directly or indirectly, I would  
6 have heard conversations about these properties, in  
7 addition to being told, I probably asked "What's that  
8 for?" And was told and given the name of the property.

9 133 Q. Do you know how many land transactions in which  
10 Mr. Finnegan was himself directly involved with Messrs.  
11 Brennan and McGowan?

12 A. Well, I know from reading in the papers, there is talk  
13 about six or something like that, but I would probably  
14 have only remembered two or three of them until now.

15 134 Q. If I could ask you to look at page 4847.

16 A. Yes.

17 135 Q. And you will see that the first lodgement on the 16th  
18 of January of 1979 is a lodgement of ú51,133.34.

19 A. That's right.

20 136 Q. And beside that are the words "Part-B'View", presumably  
21 an abbreviation again for Bellevue?

22 A. That's right.

23 137 Q. And there is a word scratched out there between the  
24 words --

25 A. There is. I can't make out what it is, though. It  
26 looks like "from", I would think. And I see I have  
27 "from" on the next line, "transfer from AK". I am not  
28 sure, but I could have just put it down - written it  
29 down and realised it's on the wrong line, crossed it  
30 out.

1 138 Q. Yes. And if you look at page 4850.

2 A. Yes.

3 139 Q. You will see that there is a lodgement in the sum of

4        ú50,000 on the same date, the 16th of January?

5 A. Yes.

6 140 Q. Presumably 1978, of ú50,000?

7 A. Yes.

8 141 Q. Again, it's an account without designation, isn't that

9        right?

10 A. That's right. "AK/6".

11 142 Q. Whereas the previous lodgement of ú51,133.34 has the

12        designation "AK/5"?

13 A. Yes, I assume so.

14 143 Q. The total of those two amounts, Mr. Turvey, is

15        ú101,133.34?

16 A. Yes.

17 144 Q. And you may or may not be aware that in December of

18        1978 Foxtown was to receive a sum of ú101,333.34 as a

19        result of the Bellevue Avenue transaction?

20 A. I doubt if I was aware of that at the time. I am aware

21        of it now from the papers.

22 145 Q. Those two lodgements together seem to comprise the

23        Bellevue Avenue distribution, as it were?

24 A. They do.

25 146 Q. Was it the position, Mr. Turvey, that you received your

26        instructions in connection with the operation of this

27        account from Mr. John Finnegan?

28 A. Yes.

29 147 Q. And were you in a position to deal yourself with the

30        bank in Dublin on behalf of Mr. Finnegan?

1 A. I was.

2 148 Q. Were you authorised, for example, to withdraw funds  
3 from this account?

4 A. I was.

5 149 Q. And in - having authority to withdraw funds from this  
6 account, from whom did you take your instructions?

7 A. From John Finnegan.

8 150 Q. Was it ever a position that you received your  
9 instructions from the trustees of the Trust to withdraw  
10 funds?

11 A. I wouldn't have thought so.

12 151 Q. If I could ask you, Mr. Finnegan, to - sorry, Mr.  
13 Turvey, I beg your pardon, to look at pages 4974 and  
14 4975.

15 A. Yes.

16 152 Q. Can you explain - these are two pages that appear to be  
17 a reconciliation.

18 A. That's right.

19 153 Q. Can you explain the circumstances in which you would  
20 have prepared these? This, I presume, is in your  
21 handwriting, is that right?

22 A. It is, yes.

23 154 Q. Can you explain the circumstances in which you would  
24 have prepared this document?

25 A. I assume I would have been trying to keep a record of  
26 the major transactions through the account, to try and  
27 make my own calculations, probably for John Finnegan,  
28 of how much money was in the Trust, in Foxtown  
29 Investments.

30 155 Q. Yes. If we can go down through the document,

1 Mr. Turvey.

2 .

3 The first entry I want you to look at is - I think it's

4 dated the 16th of March, or the 16th of the 3rd, 1973?

5 A. 16th - the 2nd, I think it is. Yes. Yes.

6 156 Q. The 16th of February?

7 A. Yeah.

8 157 Q. 1973?

9 A. Yes.

10 158 Q. Is that correct?

11 A. That's right.

12 159 Q. And beside - sorry, there is one thing I should ask

13 you, have clarified with you, Mr. Turvey. In the

14 explanation that you were asked to provide for the

15 Tribunal, you have beside a number of entries relating

16 to these two pages debits, where they appear to the

17 Tribunal to be credits. Can you explain, first of all,

18 in relation to page 4974, starting with the figure of

19 ú53,000, is that a credit to the account or a debit?

20 A. It's a debit.

21 160 Q. It's a debit?

22 A. I would be --

23 161 Q. It's a debit. If you move on to the next page,

24 Mr. Turvey, and you look at the very last entry, which

25 is ú100,000, beside the initials "JJT"?

26 A. Yes.

27 162 Q. That seems to relate to a lodgement of ú100,000 that

28 was made to the account of Mr. Finnegan after the

29 Monkstown land transaction?

30 A. Yes.



1 163 Q. That would suggest that the first column there,

2 starting with the words "53,000" are credits?

3 A. No. You've got that wrong, I'm afraid. I am doing my

4 own account here, which is - an account I am doing for

5 John Finnegan. When you look at a bank statement, you

6 are looking at the bank's account. A lodgement on the

7 bank statements is a credit. A lodgement on your own

8 books is always a debit.

9 164 Q. I see. This is an account - well, if we simplify it.

10 Can we deal with it in terms of money into the account

11 and money out of the account, so that we know what we

12 are talking about?

13 A. Certainly.

14 165 Q. Can we call the first column "Money into the account"?

15 A. Yes.

16 166 Q. Starting with the word "53", and then the second

17 column, "Money out of the account"?

18 A. Yes.

19 167 Q. Therefore, if we can deal with it on that basis, I

20 think that eliminates the difficulty with the debits

21 and the credits on the statement?

22 A. All right.

23 168 Q. If I could take you back, then, to the first entry,

24 which is the 16th of February, 1973. The words "H/T"

25 plus "C/M" are there?

26 A. Yes.

27 169 Q. What's your understanding of that entry?

28 A. Well, when I saw this first, and this document was

29 produced to me, I couldn't make out what it was. I

30 couldn't remember the significance. And I have since

1        guessed, and I must emphasise it's a guess, that that's  
2        - the "H/T" stood for High Seas Trust, and the "CM" for  
3        Cayman. But I - that, I have to emphasise, is a guess.  
4        And I think, if I were putting an abbreviation for High  
5        Seas Trust, I would have put "HST". It's not - I  
6        wouldn't have used it very often, but I am not certain.  
7        I am very doubtful whether my guess is correct there.

8 170 Q. Did Mr. Finnegan have a trust called the High Seas  
9        Trust?

10      A. He did.

11 171 Q. Did Mr. Finnegan have a trust, or deposits, or  
12        financial dealings with the Cayman Islands?

13      A. He did.

14 172 Q. If I could take you down to the next transaction, which  
15        is the 30th of the 1st, 1974.

16      A. Yes.

17 173 Q. And that is money in, in the sum of ú29,843 possibly,  
18        69 pence?

19      A. Yes.

20 174 Q. So that would be a lodgement to the account of Foxtown  
21        in that amount?

22      A. That's right.

23 175 Q. It bears the reference "Per JDT". Who is JDT?

24      A. Des Traynor.

25 176 Q. Do you have any idea what that lodgement was in  
26        connection with?

27      A. I don't.

28 177 Q. If I could ask you to move down to deal with the next  
29        transaction, at the 15th of the 6th, '76?

30      A. Yes.

1 178 Q. And this is a - money in, in the sum of ú25,000. And  
2 it bears the handwritten annotation "MT.A". Is that an  
3 abbreviation for Mount Anvil?

4 A. It is.

5 179 Q. And what is your recollection in connection with that?

6 A. Well, I don't really have any recollection, except I  
7 know a property in Mount Anvil - there had been some  
8 transaction in connection with a property in Mount  
9 Anvil around about that time, and this was a lodgement  
10 of money that emanated from that. But how or why, I  
11 don't know.

12 180 Q. Is it your recollection that that transaction was one  
13 involving Messrs. Brennan and McGowan also?

14 A. My recollection - I don't recollect Mount Anvil being  
15 involved with Brennan and McGowan, but maybe it was.

16 181 Q. If I could take you to the next transaction, which has  
17 the same date, and this is a lodgement of ú70,000 in,  
18 or money in of ú70,000, and it bears the abbreviation  
19 "PE." Is that an abbreviation for the Pembroke Estate?

20 A. It is.

21 182 Q. So that would be a credit or a lodgement in the sum of  
22 ú70,000 attributable to the Pembroke Estate?

23 A. Yes.

24 183 Q. Now, the actual bank statements in connection with some  
25 of these entries are not available. Isn't that right?

26 A. That's right.

27 184 Q. So there is no other document against which this can be  
28 referenced, because the bank statements of Foxtown  
29 Investments are not yet available?

30 A. That's right.

1 185 Q. If you could move down, then, to the next lodgement or  
2 transaction, which is on the 1st of the 10th, 1976.

3 And you will see that the lodgement is in the amount of  
4 ú10,000 and the abbreviation is "FHouse"?

5 A. That's right.

6 186 Q. Is that an abbreviation for Firhouse?

7 A. It is.

8 187 Q. Do you recollect or have an understanding that that  
9 lodgement was a lodgement in connection - or that there  
10 was some connection to Mr. Joseph McGowan?

11 A. I do.

12 188 Q. Can you explain that?

13 A. No, except that I remember that - I think I remember  
14 that they built houses on land in Firhouse, called  
15 Firhouse, or there was some connection with it. Just  
16 Brennan and McGowan - I associate the name Firhouse  
17 with Brennan and McGowan.

18 189 Q. I see. Beneath that, then, there is another lodgement  
19 in the sum of ú10,000 with the initials "J McG"?

20 A. That's right.

21 190 Q. To what do you attribute "J McG"?

22 A. Well, I assume, because it's on the same date, I assume  
23 it's Joe McGowan. It had to be either Joe McGowan or  
24 John Maguire. But I assume because of it's  
25 juxtaposition there, that it's Joe McGowan.

26 191 Q. And beneath that, then, on the 2nd of March, 1977,  
27 there is a lodgement of ú13,000 with the initials or  
28 abbreviations "P.G". Is that correct?

29 A. That's right.

30 192 Q. And again "MT.A", presumably Mount Anvil?

1 A. Yes.

2 193 Q. Can you explain "P.G"?

3 A. I can't, but as you know, I've made a guess at it. The  
4 only "P.G" I can think of is Patrick Gallagher, but I  
5 have no idea what the - what connection, if any, he had  
6 with Mount Anvil.

7 194 Q. If you move down to the bottom of the page, then. On  
8 the 14th of the 6th, '77, and I think there is a bank  
9 statement for this, the reference is "SG", and there is  
10 a withdrawal of ú5,000?

11 A. Yes.

12 195 Q. And can you explain that?

13 A. Well, that's this account - "SG" is St. Stephen's  
14 Green, and it means the Bank of Ireland, St. Stephen's  
15 Green. And that's the account that was used for  
16 personal expenses for John Finnegan.

17 196 Q. So that, in effect, would be a withdrawal which was to  
18 be credited to the account of Mr. Finnegan's company in  
19 Bank of Ireland, St. Stephen's Green?

20 A. That's right. It would be credited in our books. It  
21 would be the other way around --

22 197 Q. Try and keep it simple, Mr. Turvey.

23 A. Certainly.

24 198 Q. The entry immediately beneath that, which is "PE  
25 (JDT)", and the date appears to be the 18th of the 5th,  
26 is a debit of ú6,000?

27 A. Yes.

28 199 Q. Can you explain that?

29 A. Well, the "PE" is Pembroke Estates. "JDT" in brackets  
30 is Des Traynor. The 18th of the 5th, I haven't the

1 remotest idea, and I don't remember the transaction.

2 The 18th of the 5th, I see no other entry on the 18th

3 of the 5th, so I don't quite know what the reason for

4 the 18th of the 5th is.

5 200 Q. If you move on to the next page, which is page 4975,

6 and if you look at the 11th of the 11th, '77, you will

7 see there is money out of the account in the sum of

8 ú33,333.33, which is attributed to JJT?

9 A. That's right.

10 201 Q. And this, on the bank statement, has been attributed to

11 Monkstown, "M'Town", isn't that right?

12 A. That's right, yes.

13 202 Q. Am I correct, then, in thinking that, on your workings

14 on this page, you are attributing that withdrawal to

15 some engagement between Mr. Finnegan, Mr. McGowan and

16 Mr. Brennan?

17 A. That's right.

18 203 Q. And immediately beneath that date, at the 16th of the

19 11th, there is money in, in the sum of ú10,000, with

20 the reference "JJT"?

21 A. That's right.

22 204 Q. And I think we've seen that on the bank statement, and

23 it has the words "J Kiernan" beside it?

24 A. That's right.

25 205 Q. If you move down to the bottom of the page, again there

26 is a credit in the sum of ú100,000, and the reference

27 there is "JJT"?

28 A. That's right.

29 206 Q. And I think if we look at a bank statement - I'll find

30 the bank statement. If you look at page 4843 on the

1 bank statements --

2 A. Yes.

3 207 Q. -- you will see a credit on December the 29th, 1977.

4 A. Yes.

5 208 Q. With the value date of the 21st of December, '77.

6 A. Yes.

7 209 Q. As being transferred from Natwest Bank Limited?

8 A. Yes.

9 210 Q. In the sum of ú100,000?

10 A. Yes.

11 211 Q. That would appear to relate to the entry that you have

12 attributed, ú100,000, on page 4975?

13 A. It would look like that, yes.

14 212 Q. For what purpose, Mr. Turvey, would you have been

15 maintaining these books, these records that are on page

16 4974 and 4975?

17 A. It would have been to try and keep track of balances in

18 Foxtown Investments' accounts, and to reconcile, to

19 make sure that the charges and the credits that were in

20 the accounts were as they should be.

21 213 Q. It would appear also, from a perusal of these

22 documents, that Mr. Finnegan on occasion purchased

23 certain shares for other people?

24 A. Yes.

25 214 Q. And was repaid, is that correct?

26 A. That's correct.

27 215 Q. And I think --

28 A. It wasn't very frequent.

29 216 Q. But it did happen?

30 A. It did happen, yes.

1 217 Q. And I think there are three or four persons for whom  
2 entries are made on the bank statements, that are  
3 attributable to the purchase of shares for other  
4 people, such as Mr. Maguire?

5 A. That's right.

6 218 Q. And Mr. Lipscombe, I think?

7 A. That's right.

8 219 Q. And Mr. Burke?

9 A. Yes.

10 220 Q. Were these shares purchased on instructions from  
11 Mr. Finnegan?

12 A. They would have been, yes.

13 221 Q. You were involved in correspondence with Sovereign  
14 Management in connection with the payment of bills and  
15 the payment of fees, and matters such as that sort?

16 A. I was.

17 222 Q. And also involved in correspondence with Guinness &  
18 Mahon in Dublin in connection with, usually the  
19 withdrawal of funds?

20 A. Yes.

21 223 Q. It would appear that the correspondence in connection  
22 with the sale of shares, or the purchase of shares went  
23 to Guernsey, but that the correspondence in relation to  
24 debits or withdrawals on account went directly to  
25 Guinness & Mahon in Dublin?

26 A. Possibly. I don't know - the correspondence in  
27 connection to the purchase and sale of shares wouldn't  
28 have been very frequent, I think.

29 224 Q. But in relation to the withdrawal of funds from this  
30 account, insofar as the correspondence reflects, if you



1 would like to look at page 4978 - sorry, 4978 or 4979?

2 A. No, I don't have those.

3 225 Q. Sorry. We'll give you a copy of 4978.

4 (Document handed to witness.)

5 .

6 This can come up on the screen, please.

7 .

8 This is an instruction from Mr. Finnegan to Mr. Ru

9 Leonard of Guinness & Mahon in Dublin?

10 A. Yes.

11 226 Q. Of the 14th of June, '77. And if you check across the

12 bank statements you will see that there is, in fact, a

13 withdrawal there in that amount. And it's a request to

14 give "Bearer draft for ú5,000 in favour of Bank of

15 Ireland, and charge as arranged on the telephone."

16 A. Yes.

17 227 Q. So it would appear that the system that was in place,

18 Mr. Turvey, was that if one required funds from the

19 Foxtown accounts which were held in Guernsey, that one

20 had - one could withdraw these funds from Guinness &

21 Mahon in Dublin?

22 A. Yes.

23 228 Q. And if you look at the next page, which is 4979, you

24 will see that you write, on the 13th of October of '77

25 to Mr. Martin Keane in Guinness & Mahon, referring to

26 your telephone conversation yesterday and confirming

27 that you require a draft for ú10,000 payable to Bank of

28 Ireland. And it says, "Please debit in accordance with

29 our conversation."

30 A. Yes.

1 229 Q. So the debit, I presume, Mr. Turvey, relates to the  
2 account of Foxtown?

3 A. Yes.

4 230 Q. And at the bottom of that page, beneath the words  
5 "Desmond Turvey", you will see four, I think - "4 S.G".  
6 Is that for the bank account in St. Stephen's Green in  
7 the name of the company?

8 A. Yes.

9 231 Q. And I think the bank statement reflects that also?

10 A. Yes.

11 232 Q. Is it the position, therefore, that you took your  
12 instructions in connection with the operation of this  
13 account from Mr. Finnegan?

14 A. It is, yes.

15 233 Q. And you, yourself, did have dealings with a number of  
16 people in Guinness & Mahon on behalf of Mr. Finnegan?

17 A. I did.

18 234 Q. And presumably, you were authorised by Mr. Finnegan to  
19 make withdrawals on the account?

20 A. I was.

21 235 Q. And on occasion to make lodgements to the account?

22 A. Yes. Although the occasions on which I would make a  
23 lodgement wouldn't be very frequent.

24 236 Q. No. If you look at page 4977, Mr. Turvey, you will see  
25 there one of the occasions on which you did make a  
26 lodgement. Ms. Williams will hand you a copy of the  
27 document.

28 (Document handed to witness.)

29 .

30 That is a letter of the 1st of September, 1978. 4977,

1 please?

2 A. Yes.

3 237 Q. It's addressed to Mr. John Lipscombe of Sovereign  
4 Management Limited in Guernsey?

5 A. That's right.

6 238 Q. And it's headed up, "Re Foxtown Investments Limited"?

7 A. That's right.

8 239 Q. And it's: "Dear John, I have pleasure to enclose  
9 cheque for ú20,000, which I would be obliged if you  
10 would kindly lodge to the above account and oblige."

11 A. Yes.

12 240 Q. And "Yours sincerely, Desmond Turvey".

13 .

14 If we scroll down the document, you will see, written  
15 in your writing, I think "J Maguire - ú28,250", and  
16 beneath that "8,250 to SG"?

17 A. Yes.

18 241 Q. That would suggest that the lodgement of ú20,000, which  
19 was made to Foxtown Investments, was part of a larger  
20 payment from Mr. Maguire?

21 A. That's right.

22 242 Q. And that ú20,000 that is lodged there, we have seen  
23 reflected in the bank statement at page 4844.

24 A. Yes.

25 243 Q. Is that correct?

26 A. That's right.

27 244 Q. And, therefore, the total payment by Mr. Maguire at  
28 that time, in September of 1978, was ú28,250, of which  
29 ú8,250 went to St. Stephen's Green?

30 A. That's right.

1 245 Q. And who made the decision on how these funds should be  
2 split?

3 A. I would assume John Finnegan.

4 246 Q. So that insofar as if the - the ú28,250 was originally  
5 intended for Foxtown, the decision to take some of the  
6 funds and place it in St. Stephen's Green was a  
7 decision made by Mr. Finnegan?

8 A. Yes.

9 247 Q. And that the amount that was, in fact, referred to the  
10 credit of Foxtown Investments, was the ú20,000 that we  
11 see on page 4844?

12 A. It would appear like that, yes.

13 248 Q. Do you know what happened to the Foxtown Investments'  
14 file after you left Finnegan Menton?

15 A. I don't. I would have left them in the filing cabinet  
16 in my office, and to my knowledge, that office, after I  
17 left, wasn't used by anyone else. It wasn't occupied  
18 as an office, I mean, by anybody else.

19 249 Q. Yes. And did you go back to work in Foxtown  
20 Investments - sorry, I beg your pardon, in Finnegan  
21 Menton in recent times?

22 A. I did. I went back in 1994.

23 250 Q. And what was the state of your office at that stage,  
24 the office you had left?

25 A. More or less as I left it. I mean, I wouldn't have  
26 noticed any great difference.

27 251 Q. And what about the files?

28 A. I never looked for them, because when I went back, it  
29 was made clear that I was no longer going to be  
30 involved in Mr. Finnegan's personal affairs. So I

1 don't know what the situation was about the files.

2 They may have been there, they may have been gone. I

3 don't know.

4 252 Q. But it would appear that the Dudgeons file was not

5 gone?

6 A. Apparently, obviously, yes.

7 253 Q. And do you have any recollection that when you went

8 back to the offices of Finnegan Menton, that the files

9 that you had left there were still there?

10 A. No, I don't recollect them. I don't - they were old,

11 old files of mine for various things there, and I got

12 rid of a lot of them later on. But I would not have

13 got rid of any Foxtown ones.

14 254 Q. Why is that?

15 A. Well, I would have asked permission, or I would have

16 got - I wouldn't have destroyed them. Any old ones -

17 they would have been old papers of mine that I

18 destroyed. They weren't very relevant to anything.

19 But I wouldn't have destroyed Foxtown files.

20 255 Q. And insofar as the Dudgeons file apparently survived

21 and remained in the offices of Finnegan Menton --

22 A. Yes.

23 256 Q. And with that file - were the few files together?

24 A. They would have been. Oh, yes. The Dudgeons file, it

25 - I mean, Foxtown was a client of Dudgeons, so it was

26 part of the Foxtown situation. But I had held the bank

27 statements, got on that file, I can only assume was

28 because I was trying to reconcile the bank statements

29 with the dealings in stocks and shares at the time. I

30 may have even put copies - they may even be copies of

1 what had been on the bank files.

2 257 Q. But the Foxtown Investments bank file, as you've just  
3 said, would have been a file that had all of the bank  
4 statements that you had dealt with or received between  
5 1972 and 1984?

6 A. It would have been, yes.

7 258 Q. And that file was complete when you left?

8 A. Well, I assume it was. It's a long time ago.

9 259 Q. It is, yes. And with it were the Dudgeons file?

10 A. Yes.

11 260 Q. Is it your recollection, from looking at the Dudgeons  
12 file, that when you see it now it's in substantially  
13 the same condition and situation as it was in when you  
14 last saw it in 1984?

15 A. I couldn't say. I couldn't answer "yes" or "no" to  
16 that. I don't really know. I don't know what way it  
17 would have been. Remember, it wasn't an official  
18 company file, it was private or personal. It wasn't  
19 within a meticulously kept filing system, as the  
20 company's documents would be.

21 261 Q. Yes. I mean, within the offices of Finnegan Menton,  
22 this file, and the file of Foxtown Investments, will be  
23 more sensitive? It would contain sensitive and  
24 confidential financial information?

25 A. It was confidential, yes.

26 262 Q. And if the shares file were to survive, or stayed in  
27 the offices of Finnegan Menton, would there be any  
28 reason for someone to make a decision to destroy the  
29 bank account file, for example, as opposed to this  
30 file?

1 A. I don't know. I think if the files were destroyed,  
2 they would be destroyed willy-nilly because they were  
3 so old. But that one - the one which must have  
4 escaped, must have been lying somewhere different.

5 .  
6 If the other files disappeared, that file remained, I  
7 don't know why, but I would think it would be an  
8 accident.

9 263 Q. That it survived?

10 A. Yes.

11 264 Q. But it's your recollection, that insofar as there were  
12 Foxtown files maintained for John Finnegan in the  
13 offices, they were kept together and they were kept by  
14 you until you left in 1984, and they were left in your  
15 office?

16 A. I would think so, yes.

17 265 Q. And were they in a filing cabinet?

18 A. Yes.

19 266 Q. And were they altogether?

20 A. I would assume so.

21 267 Q. And how many files had you in relation to John  
22 Finnegan's private affairs?

23 A. Probably three or four.

24 268 Q. And of those files, this apparently is the only one  
25 that has survived?

26 A. It would appear so.

27 269 Q. So at some stage after 1984 a decision must have been  
28 taken, Mr. Turvey, to destroy the other files?

29 A. I assume so.

30 270 Q. And normally, I suggest, the records that people would

1 most like to keep would be bank statements?

2 A. I don't know if they are 30 years old or 20 years old.

3 I don't think anybody is ever very anxious to keep

4 them.

5 271 Q. When you came back to work in Finnegan Menton in 1994,

6 did you - you were in the same office?

7 A. No, I think I moved. I think I moved office. Yeah.

8 272 Q. Did you ever see or become aware of the fact that those

9 files were, in fact, gone? Did you ever go look for

10 the files? Had you any reason to look for the files?

11 A. I had no reason to go looking for them.

12 273 Q. Is there a safe in Finnegan Menton?

13 A. There is.

14 274 Q. Yes. Ms. Williams reminds me that Ms. O'Neill, when

15 she was giving evidence, has told the Tribunal that

16 there was no Foxtown Investments file.

17 A. That could easily be because there wouldn't be one in

18 the Finnegan Menton filing system. It would be simply

19 private ones that I kept.

20 275 Q. Yes. Ms. O'Neill told the Tribunal that she took over

21 your files when you left, and that this - because they

22 were sensitive and confidential files, but that there

23 was no Foxtown file, such as I understood her evidence,

24 and Mr. Hussey will correct me, such as you have now

25 described to the Tribunal. That there was no such

26 file.

27 A. Well, I don't know the answer to that. I had some

28 Foxtown files, certainly. If there were none at the

29 time Ms. O'Neill was referring to, then I don't know

30 where they went.



1 276 Q. I see. Thank you very much, Mr. Turvey.

2 .

3 If you would answer any questions that anybody else may

4 have.

5 A. Thank you.

6 .

7 MR. HUSSEY: I think Mr. Dunne may go first, if you

8 don't mind.

9 .

10 THE WITNESS WAS CROSS-EXAMINED BY MR. DUNNE AS FOLLOWS:

11 .

12 277 Q. MR. DUNNE: Good morning, Mr. Turvey. I appear on

13 behalf of Messrs. Brennan and McGowan, and I just have

14 a few questions for you.

15 .

16 I think in your evidence, in effect what you were

17 saying, and correct me if I'm wrong, that in relation

18 to your entries on the bank statements in relation to

19 Monkstown, Bellevue, Newtownpark Avenue, and in effect

20 any transaction that wasn't a stock transaction, that

21 you were dependent on Mr. Finnegan for the information.

22 Would that be correct?

23 A. Correct.

24 278 Q. And would it be correct to say that you had no personal

25 knowledge of any of these transactions?

26 A. No, it wouldn't. I did have some knowledge, naturally,

27 from conversation, a fair amount of knowledge of the

28 transactions that were going on. But I was not

29 involved in them, in the detail of them. But it's a

30 small office, and we talked to one another and I would

1           have been aware of them.

2 279 Q.   And who would you have had these conversations with?

3       A.   With John Finnegan.

4 280 Q.   With John Finnegan.  So in effect, the personal

5           knowledge, as you call it, that had you, was from

6           conversations with John Finnegan?

7       A.   Absolutely.

8 281 Q.   I see.  And I think, if I can refer to your first

9           statement that you made to the Tribunal, attached

10          thereto at page - I think it's page 5 onwards, there is

11          a schedule where you list a number of transactions.  If

12          I could bring you to page 8 of that statement.  I don't

13          know whether you have a copy of it?

14       A.   I don't have a copy here.  Is there one coming on the

15          screen?

16       .

17       MS. DILLON:  No, Sir.  We'll give a copy of this to

18       Mr. Turvey.

19       (Document handed to witness. )

20       .

21 282 Q.   MR. DUNNE:  On page 8 of the statement, I think, is

22          part of the schedule.

23       A.   Yes.

24 283 Q.   And if you look at the entry four from the bottom, you

25          see "B'View"?

26       A.   Yes.

27 284 Q.   Do you see that?  And you have "Bellevue re property

28          same name.  No knowledge of details"?

29       A.   That's right.

30 285 Q.   And does that tie in with what you are saying, that you

1 had no knowledge of the - these transactions, in

2 effect, other than what you were told?

3 A. It ties in that case, Bellevue, I had no knowledge of

4 the details.

5 286 Q. Okay. Thank you.

6 .

7 If I could just bring you to your - the bank

8 statements. I think you have the one - one of the bank

9 statements --

10 A. I have.

11 287 Q. -- there before you. If you could look at page 4838,

12 please.

13 A. Yes.

14 288 Q. And I think it was your evidence that the handwriting

15 on that page is your handwriting, is that correct?

16 A. It is, yes.

17 289 Q. Okay. And I think it was your evidence that the

18 handwriting on all those statements, 4844, 4845, is

19 also your handwriting. Is that correct?

20 A. It is.

21 290 Q. And in relation to the reconciliation statement that

22 Ms. Dillon brought you through at 4974 and 4975, is

23 that your handwriting?

24 A. It is.

25 291 Q. I wonder if you could look at page 4838 for a moment,

26 please.

27 A. Yes.

28 292 Q. And if you could go down to the date, the 27th of

29 April, 1977 "interest"?

30 A. Yes.

1 293 Q. And across from that you have initialed "INT"?

2 A. Yes.

3 294 Q. I presume that stands for "interest", does it?

4 A. It does.

5 295 Q. And if you could then look at page 4844.

6 A. Yes.

7 296 Q. And the transaction on the 10th of October, 1978.

8 A. Yes.

9 297 Q. And across there you have written "interest"?

10 A. Yes.

11 298 Q. It would appear, Mr. Turvey, that that's a different

12 hand?

13 A. It's not a different hand.

14 299 Q. Very well. Could you look at page 4974, the

15 reconciliation, please.

16 A. Yes.

17 300 Q. And you'll see the entry on the 1st of October, 1976, I

18 think you said it was Firhouse, and under that you have

19 written "J McG". Is that correct?

20 A. Yes. Yes.

21 301 Q. And if you could look at page 4844.

22 A. Yes.

23 302 Q. And the entry, I think it's either the 18th or the 28th

24 of November, 1978?

25 A. Yes.

26 303 Q. "B'View". And just under that you see "J McG, H.CT"?

27 A. Yes.

28 304 Q. Again, Mr. Turvey, if you look at those two pages, the

29 "J McG" on page 4974, and the "J McG" on page 4844, it

30 would appear to be in different handwriting?

1 A. It's not different handwriting. In one case I am  
2 writing in ordinary, what is called, joined writing,  
3 and the other, I am writing in block capitals. If you  
4 look in several other places on these accounts you'll  
5 see exactly the same thing. All over the place there  
6 is writing of mine in ordinary writing and there is  
7 writing of mine in capitals.

8 305 Q. Okay.

9 A. But it is quite certainly my writing.

10 306 Q. Very well. And if I could just draw your attention to  
11 one more piece of handwriting. And if you could clear  
12 it up for us as well. If you look at page 4844.

13 A. Yes.

14 307 Q. And the - again that transaction of the 28th of  
15 November, 1978, "B'View"?

16 A. Yes. Yes.

17 308 Q. If you look at the next page, 4845, and the same  
18 transaction?

19 A. Yes.

20 309 Q. It would appear to be a different "B"?

21 A. Yes, it is, but it's still my writing. And once again,  
22 I think it's this instance where I use capitals  
23 sometimes and I don't use capitals on other occasions.  
24 But it's certainly my writing in both cases.

25 310 Q. If I could bring you back, Mr. Turvey, to 4974, page  
26 4974. And back to the transaction of the 1st of  
27 October, 1976, the Firhouse and the J "McG"?

28 A. Yes.

29 311 Q. I think your evidence to Ms. Dillon was that the  
30 Firhouse transaction was probably a reference to

1 Mr. Brennan, is that correct?

2 A. To Brennan and McGowan. I didn't say to Mr. Brennan.

3 312 Q. To Brennan and McGowan. And you said that "J McG" was

4 - could be related to Mr. McGowan, is that correct?

5 A. Yes.

6 313 Q. If that was the case, considering that for the second

7 part you wrote down "J McG", would you not have written

8 down "TB" or "JJ" --

9 A. You see, you are making an assumption. You made an

10 assumption that it referred to Tom Brennan. I had no

11 idea it was Tom Brennan. I was simply told or put down

12 it was Firhouse, and then I was told that the other one

13 after it was Joe McGowan. It's quite possible the

14 first one was Tom Brennan, but I didn't know that.

15 314 Q. So you have no evidence to suggest that it is Tom

16 Brennan?

17 A. No.

18 315 Q. In relation to the "J McG", I think, and Mr. Hussey

19 will correct me if I'm wrong, Mr. Finnegan's evidence

20 was that that referred to John Maguire?

21 A. Well, that may be. And one of my first reactions was

22 that it could have been John Maguire, but then, when I

23 looked at this document and saw the juxtaposition, the

24 two of the same date, I assumed that it was, and I said

25 earlier, it was an assumption that I was assuming it

26 was Joe McGowan, because the date was the same. I

27 didn't repeat the date, you see, on previous items.

28 The one immediately above that I have the 16th of the

29 7th, '76, and about six items, all of which occurred on

30 that date, but I only entered the date once.

1 .  
2 On this date I entered the date once, and the fact that  
3 the next line, the date is blank, that indicates to me  
4 that they were both on the same date.

5 316 Q. Well, would it be fair to say, Mr. Turvey, that your  
6 assumption that "J McG" is Joe McGowan is based on your  
7 assumption that Firhouse has something to do with Mr.  
8 Brennan?

9 A. No. I didn't - I never contemplated Mr. Brennan's name  
10 on this. It's based on the fact that Firhouse, I  
11 associated Firhouse with Brennan and McGowan.

12 317 Q. Very good. But it's merely an assumption?

13 A. Yes.

14 318 Q. Thank you very much, Mr. Turvey.

15 .  
16 CHAIRMAN: Mr. Hussey?

17 .  
18 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. HUSSEY AS  
19 FOLLOWS:

20 .  
21 319 Q. MR. HUSSEY: Mr. Turvey, I have a couple of questions  
22 for you, just on that very last point; the entry on  
23 page 4974, the entry of the 1st of October. There is  
24 two entries, there is the house entry and then "J McG".  
25 I think Mr. Finnegan thought that the letter before  
26 "house" was probably a "G", Perry Grafton House, rather  
27 than Firhouse?

28 A. No --

29 320 Q. I am just merely putting to you that that was his - he  
30 didn't know --

1 A. It's my bad writing.

2 321 Q. That's your letter --

3 A. It is, yes.

4 322 Q. And again, he thought that the next entry was relating

5 to Mr. Maguire rather than Mr. McGowan. But you've

6 made the connection, because the Firhouse, as you

7 understand it, was a Brennan and McGowan situation?

8 A. That's right.

9 323 Q. I just noticed that wherever else you referred to Mr.

10 McGowan, it's under the legend "JJT"?

11 A. No, I was referring to three people there.

12 324 Q. Exactly. But wherever you refer to Mr. Maguire, it's

13 "J McG" or "J Maguire", there is no other entry

14 "J McG" for Mr. McGowan?

15 A. Is there not?

16 325 Q. Individually. You seem to refer to "JJT", where --

17 A. Only in those two cases, yes.

18 326 Q. Thank you, Mr. Turvey.

19 .

20 Now, in respect of the accounts, those pages, 4974 and

21 4975, they are your own workings?

22 A. They are.

23 327 Q. And probably done on the same day, or were they a

24 rolling account that was added to as the days went on?

25 A. No, I don't think so. From the look of it, it was done

26 --

27 328 Q. It looks like - well, in the same workings, from 1973

28 to 1976?

29 A. Absolutely.

30 329 Q. So those were - that was probably done sometime after



1 the end of 1977?

2 A. After the last entry, yes.

3 330 Q. Sometime after the end of 1977?

4 A. That's right.

5 331 Q. And the entries - your entries in the bank statements,

6 the entries in red that we've seen, were they done

7 again in one working, or were they done else --

8 A. Those entries in red, they were only done very recently

9 at the behest of the Tribunal, when we were in private

10 session --

11 332 Q. I'm sorry, I am talking about the original bank

12 statements with the red - your own handwriting in red

13 on them.

14 A. No, the only items in red on them would be numbers with

15 a little circle around them.

16 333 Q. No, I am sorry. I am thinking of the actual --

17 .

18 MS. DILLON: I don't wish to interrupt Mr. Hussey. I

19 don't think that when Mr. Turvey was doing his

20 preparation for his statement that he had a coloured

21 copy of the statement to which Mr. Hussey refers him,

22 with which the Tribunal is familiar. That the original

23 in Mr. Turvey's handwriting did have all of those

24 entries in red. Subsequently, when the Tribunal

25 requested Mr. Turvey to prepare his statement, for ease

26 of reference he made new annotations in red, that refer

27 to these schedules attached to Mr. Turvey's statement.

28 .

29 So I think Mr. Hussey is unwittingly confusing the

30 matter.

1

2 334 Q. MR. HUSSEY: I am sorry, Mr. Turvey.

3 A. Okay.

4 335 Q. In the original records, the bank statements, as you  
5 have gone through the pages 4927 to 4952, your workings  
6 on those original bank statements were in red biro?

7 A. I didn't realise that.

8 336 Q. I am sorry, I will just clarify that for you now. But  
9 I just want to clarify with you also, that when those  
10 workings were done, were they done as the accounts came  
11 in, or were they done as an exercise similar to the  
12 exercise that you would have done for the - for your  
13 own --

14 A. No, the exercise on page 4974 and 4975 was certainly  
15 all done at one time.

16 337 Q. Yes.

17 A. The annotations on the others, I couldn't say - they  
18 certainly weren't all done at once.

19 338 Q. Yes, I can appreciate that. But they would have been  
20 done - an account would come in and you would have  
21 wanted to get an explanation for them?

22 A. It might take some time to get the explanation.

23 339 Q. I understand. But, in any event, your original  
24 annotations on those accounts were done before you left  
25 Finnegan Menton's office?

26 A. Yes.

27 340 Q. They were probably more or less simultaneously with the  
28 accounts?

29 A. Absolutely.

30 341 Q. Is there any of your original annotations that have

- 1           been done on those accounts of recent origin?
- 2    A.  No.
- 3 342  Q.  Have you seen the Dudgeons file --
- 4    A.  I have.
- 5 343  Q.  -- that has been presented to the Tribunal?
- 6    A.  Yes.
- 7 344  Q.  What you say is that there was a Dudgeons file, and you
- 8           also had records in respect of Foxtown.  And the
- 9           records in respect of Foxtown would have included bank
- 10          statements and the like?
- 11   A.  Yes.
- 12 345  Q.  Would you have kept - as we have seen, the original
- 13          documents that were on the Dudgeons file in relation to
- 14          Foxtown and the bank statements were workings that you
- 15          had done, as I say, in red biro; that they were your
- 16          original workings on copy documents from the bank?
- 17   A.  Yes.
- 18 346  Q.  Would you have kept another set of workings on another
- 19          - on two separate files?  If you had gone through the
- 20          bank - the bank statements and done your workings on
- 21          them, would you have also done that for another file?
- 22          In other words, would you have kept two files of the
- 23          same thing?
- 24   A.  I wouldn't have thought so.  Not of the same thing, no.
- 25 347  Q.  Of that sort of intricate workings, entry by entry by
- 26          entry?
- 27   A.  I wouldn't have thought so.
- 28 348  Q.  I think, as far as the safe in Finnegan Menton's is
- 29          concerned, I think you have a key of that safe?
- 30   A.  I have.

1 349 Q. Sorry, I think I've asked you that.

2 .

3 Can I just finally and very briefly, Mr. Turvey - can I  
4 ask you to look at 4845, please. Have you got that? I  
5 just want you to look at the entry on the something of  
6 July, I think it must be the 10th of July, 1978,  
7 B 0826, the ú333,333?

8 A. Yes.

9 350 Q. You see that entry? And the "M'town" is struck out and  
10 "M Park", "M.PK" put in its place?

11 A. Yes.

12 351 Q. Is that of recent --

13 A. Definitely not. I've done nothing with those accounts.  
14 I've written nothing in on them since 1970s.

15 352 Q. Thank you very much, Mr. Turvey.

16 A. Thank you.

17 .

18 MR. HUSSEY: I think Ms. Dillon wants to revisit one  
19 little item.

20 .

21 THE WITNESS WAS THEN RE-EXAMINED BY MS. DILLON AS

22 FOLLOWS:

23 .

24 353 Q. MS. DILLON: Yes. Mr. Turvey, if I could ask you to  
25 turn to page 4842. Do you have that?

26 A. Yes.

27 354 Q. You see the entry on the 5th of April, "ú21,250 -  
28 withdrawal". Again this is an undesignated bank  
29 statement, insofar as the record is only "AK"?

30 A. Sorry, I am - I see it, yes.

1 355 Q. And beside that you have written, again in your  
2 writing, I think, "SOG (PS)"?

3 A. Yes.

4 356 Q. Can you tell the Tribunal what "SOG" refers to?

5 A. "SOG" would have been Smiths of the Green.

6 357 Q. And was that your - was it your understanding,  
7 therefore, that this was a payment, a debit or a  
8 payment on the Foxtown account in connection with  
9 Smiths of the Green?

10 A. Yes.

11 358 Q. And there is "(PS)" beside that. Does that refer to  
12 Pine Securities?

13 A. It does.

14 359 Q. Just for completeness, Ms. O'Neill told the Tribunal on  
15 Day 315 at question 120:

16 "Question: Was there a policy of not keeping a Foxtown  
17 Investments file?

18 Answer: Yes.

19 Question: Why?

20 Answer: Why? As I say, it was something I inherited.

21 I never really questioned that much along the way, but

22 I presume it was because it was in Guernsey. I presume

23 in those days it was, in other words, to try and keep

24 it apart, keep the layers there. There was an element

25 of confidentiality with Mr. Traynor and all, anything

26 to do with "Trust". So as I say, it's not something

27 that I really questioned and queried terribly much.

28 Question: So the system you inherited and which you

29 perpetuated, or which you continued with was of not

30 maintaining any file in connection with Foxtown

1 Investments or Guernsey or Mr. Traynor, if I am  
2 understanding you correctly?

3 Answer: Yes.

4 Question: And that was a system that was in place when  
5 you came into work in 1984?

6 Answer: It was before 1984, but yes."

7 A. We - I think Ms. O'Neill may have been referring to  
8 what she inherited from her predecessor, John  
9 Finnegan's previous secretary, as distinct from what I  
10 would have --

11 360 Q. So while Ms. O'Neill may not have maintained or had  
12 herself a Foxtown Investments file, there was in  
13 existence when you left a number of files relating to  
14 Foxtown Investments, of which the Dudgeons file appears  
15 to be the sole surviving --

16 A. Yes. Yes.

17 .

18 MS. DILLON: Thank you very much, Mr. Turvey.

19 .

20 Yes, Sir, I should say that due to the fact that you  
21 sat late yesterday, Sir, and it was anticipated that  
22 some of those witnesses would come this morning, this  
23 is the only witness for this morning, and the other  
24 witnesses who are the three Fianna Fail witnesses are  
25 scheduled for 2:15, because of the difficulty that  
26 their representatives had prior to that time.

27 .

28 CHAIRMAN: Well, in those circumstances, we'll rise  
29 until 2:15.

30 .

1 Thank you very much, Mr. Turvey, for coming down. Your  
2 assistance is very much appreciated.

3 .

4 THE WITNESS THEN WITHDREW.

5 .

6 MS. DILLON: Thank you, Sir.

7 .

8 MR. HUSSEY: Thank you, Sir.

9 .

10 THE TRIBUNAL THEN ADJOURNED UNTIL 2:15.

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1 THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

2 .

3 MR. HANRATTY: Mr. Roy Donovan, please.

4 .

5 MR. BRADY: I appear with Mr. Colm O'Hoisin, instructed

6 by Mr. Frank Ward. I am here for this witness and the

7 next two witnesses.

8 .

9 MR. HANRATTY: I think Mr. Brady and his solicitor have

10 been given representation on a previous occasion.

11 .

12 CHAIRMAN: As far as I recall, that's correct.

13 .

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1 MR. ROY DONOVAN, HAVING BEEN SWORN, WAS EXAMINED BY

2 MR. HANRATTY AS FOLLOWS:

3 .

4 361 Q. MR. HANRATTY: Mr. Donovan, I think you are the  
5 Chairman of the Fianna Fail National Fundraising  
6 Committee?

7 A. Yes, I am.

8 362 Q. And I think you have been involved with Fianna Fail  
9 fundraising since the 1960s?

10 A. Yes, I have.

11 363 Q. To your knowledge, has Mr. Ernst Ottiwell ever been  
12 involved in fundraising on behalf of Fianna Fail?

13 A. To my knowledge, never.

14 364 Q. I think as it happens, you were acquainted with  
15 Mr. Ottiwell in some capacity?

16 A. Yes.

17 365 Q. And was that in your professional capacity in Lisneys?

18 A. Yes.

19 366 Q. And to your knowledge, did he have any kind of  
20 involvement in fundraising or fundraising endeavours  
21 for Fianna Fail in the period in which you were so  
22 involved?

23 A. Never.

24 367 Q. And did you ever meet him in that context, or in any  
25 context other than in the professional context in which  
26 you mentioned?

27 A. Never. I had no knowledge with the man, other than in  
28 his involvement in property transactions.

29 368 Q. And had Mr. Ottiwell been involved in fundraising for  
30 Fianna Fail, do you think you would have been aware of

1 it?

2 A. Yes, I think I would. If he had been involved in  
3 fundraising for the Party, I think I would, yes.

4 369 Q. Yes. Thank you, Mr. Donovan. If you would care to  
5 answer any questions my colleagues may wish to put to  
6 you.

7 .

8 CHAIRMAN: Does anybody wish to ask any questions?  
9 Thank you very much, Mr. Donovan.

10 .

11 MR. DUNNE: Sorry, Chairman, if I could ask a number of  
12 questions.

13 .

14 CHAIRMAN: Sorry, you are going to be detained.

15 .

16 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. DUNNE AS  
17 FOLLOWS:

18 .

19 370 Q. MR. DUNNE: Mr. Donovan, I appear on behalf of Messrs.  
20 Brennan and McGowan, and I have a few questions I would  
21 just like to ask.

22 .

23 You say that you are the Chairman of the Fianna Fail  
24 National Fundraising Committee?

25 A. Yes.

26 371 Q. And you have been involved in fundraising since the  
27 1960s, is that correct?

28 A. Yes.

29 372 Q. How long have you been the Chairman of the National  
30 Fundraising Committee?

1 A. Well, I have been Chairman of the newly established  
2 Election Committee for the last three weeks, and I have  
3 been Chairman of previous fundraising machines, or  
4 fundraising committees on and off.

5 373 Q. Yes. And how long have you been the Chairman of the  
6 Fundraising Committee?

7 A. I am speaking of fundraising committees.

8 374 Q. Oh, committees. And the National Fundraising  
9 Committee, is there more than one or just one National  
10 Fundraising Committee?

11 A. Well, the committee which I chair now is the, it is the  
12 2002 General Election Committee.

13 375 Q. That would be considered to be a National Fundraising  
14 Committee, am I correct in that?

15 A. Correct.

16 376 Q. I think you said that you have only been chairing that  
17 recently, as it were. Is that correct?

18 A. I think I may have been - I was chairing the last  
19 National Election Fundraising as well. I think I have  
20 chaired the previous one, in part. And I chaired an  
21 earlier one, when the Chairman had moved out of the  
22 jurisdiction for some time.

23 377 Q. And what period of time are we talking about here,  
24 roughly? I don't want - I know it is --

25 A. I can't be precise. I haven't looked up any records.

26 378 Q. Would it be in the 1990s or in the 1980s --

27 A. No, I certainly wouldn't have been Chairman of the  
28 Fundraising Committee in the 1980s.

29 379 Q. Okay. And you say that you were involved in Fianna  
30 Fail fundraising since the 1960s. What was the level

1 of your involvement in the 1960s and '70s?

2 A. It was very active.

3 380 Q. Could you explain a little bit more what you mean by

4 that, or what positions you held?

5 A. I only held the position of being a member of the

6 committee, but I would have been considered a

7 significant member.

8 381 Q. This is in the 1960s and 1970s and 1980s?

9 A. Yes.

10 382 Q. And this committee, was that a National Fundraising

11 Committee?

12 A. Yes.

13 383 Q. Okay. And what about funds or fundraisers from abroad

14 that come into Fianna Fail, if you like, non-national

15 or whatever definition you want to put on them? In

16 other words, for instance, if there was a fundraiser in

17 the United Kingdom or in the United States, did your

18 National Committee deal with those?

19 A. My National Committee did not deal with those. These

20 were of relatively recent origin.

21 384 Q. Well --

22 A. They certainly were not in existence, to my knowledge,

23 in the '60s or the '70s, or perhaps - or maybe in the

24 early '80s.

25 385 Q. Can I put it to you, Mr. Donovan, if your remit was in

26 relation to the national fundraising, you cannot be

27 certain that there was no international or non-national

28 fundraising, if your remit was the national

29 fundraising, to which any outside funding did not

30 apply, would you accept that?

1 A. Yes.

2 386 Q. In relation to fundraisers, do you keep lists of  
3 fundraisers, or is it through acquaintance and just  
4 your general dealing with the committees that you  
5 become aware of who is fundraising? If - for instance,  
6 if one wants to become a fundraiser in Fianna Fail, do  
7 you apply to go on a list or do you go on a list, or  
8 what was the position?

9 A. The fundraising with which I am familiar is fundraising  
10 by a committee of named members, of which there would  
11 be a list.

12 387 Q. So, in other words, the fundraisers who would be listed  
13 would be members of the committee, is that correct?

14 A. Correct.

15 388 Q. And do - and has this always been the case throughout  
16 the '60s, '70s and '80s?

17 A. Well, since I first became involved in the early '60s,  
18 yes, there would be a list of those members who are on  
19 the committee.

20 389 Q. And how many people would be on the committee, roughly?

21 I mean, I am not going to --

22 A. It varied very widely. It used to be a very big  
23 committee in the earlier days. Now it would be down to  
24 20, 25 people.

25 390 Q. When you say it would have been very big in the earlier  
26 days, what kind of numbers are we talking about?

27 A. There could have been, I suppose, 40 people on it.

28 391 Q. So, it would be only those 40 people or however many  
29 people that were on the committee who would be deemed  
30 to be fundraisers for Fianna Fail, is that correct?

1 A. Who would, to my knowledge, be fundraisers for the  
2 Party.

3 392 Q. To your knowledge. Would you accept that there would  
4 be people outside of that group who you may not know  
5 about, who would have been raising money for the Party?

6 A. Yes, there could have been people outside of it, whom I  
7 was not aware of. Of course there could be.

8 393 Q. I see. And who dealt with funds that came from England  
9 or America or wherever they may have come from, in  
10 other words, non-national fundraising?

11 A. I didn't deal with that personally.

12 394 Q. So you wouldn't have knowledge of it, personal  
13 knowledge of it?

14 A. Well, I would have hearsay knowledge of it, but not  
15 personal knowledge.

16 395 Q. No personal knowledge?

17 A. Or personally being involved in it.

18 396 Q. So, in effect, you can't really give direct evidence on  
19 fundraising activities or the monies that would have  
20 come from fundraising activities outside of Ireland?

21 A. I couldn't give direct evidence.

22 397 Q. Yes, okay.

23 .  
24 Would it be fair to say, Mr. Donovan, that it would be  
25 normal for various ministers to carry out their own  
26 fundraising, individual fundraising events, rather  
27 than, if you like, relying on the Central Party to do  
28 all the work?

29 A. I have heard of this, but I have no firsthand  
30 information from any politician at ministerial level of

1 ever having got a personal donation.

2 398 Q. Well, I am not asking you about that specifically.

3 What I am asking is, are you aware of ministers having

4 their own fundraising events, as it were, or ministers,

5 if you like, organising fundraising events for Fianna

6 Fail, or for their own constituencies?

7 A. Oh, yes. I am aware of all politicians having their

8 own local fundraising events.

9 399 Q. Yes. And would they have their own, their own people,

10 their own fundraisers, their own assistants, if you

11 like, in relation to that machinery, as it were?

12 A. I presume so.

13 400 Q. And would you have a list, or would you be aware of

14 every person who would be involved in a given

15 minister's fundraising operation?

16 A. No, I would not.

17 401 Q. So, you wouldn't be able to say whether a given person

18 was or was not a member of an individual minister's

19 fundraising committee or organisation, or a volunteer,

20 or anything of that sort?

21 .

22 MR. HANRATTY: Sorry, Sir, Mr. Burke's own evidence is

23 to the contrary, and there is no basis for this line of

24 inquiry.

25 .

26 You will recall now that Mr. Burke has quite

27 specifically nailed his colours to the mast, that these

28 were specific payments or donations from Messrs.

29 Brennan and McGowan. That is the position as it

30 stands.

1 .

2 CHAIRMAN: Yes.

3 .

4 MR. DUNNE: Well, Sir, in relation to that, from my  
5 clients' point of view, it is relevant in relation to  
6 my clients' position in relation to donations to Ray  
7 Burke/Fianna Fail that went through Mr. Ottiwell,  
8 whether or not the witness can say definitively that he  
9 would be aware if a given minister - if he would be  
10 aware if a person was associated with a given minister  
11 for the purposes of collecting for the Party or for the  
12 minister. That is all I am trying to elicit.

13 .

14 CHAIRMAN: Surely the situation is this: Your clients  
15 have deposed on oath to a particular form of  
16 fundraising.

17 .

18 MR. DUNNE: Mm-hmm.

19 .

20 CHAIRMAN: One would assume that they use the phrase to  
21 Mr. Burke and/or - and Fianna Fail.

22 .

23 MR. DUNNE: Ray Burke/Fianna Fail.

24 .

25 CHAIRMAN: Ray Burke/Fianna Fail. That is correct. If  
26 it is Ray Burke/Fianna Fail, it either goes to some  
27 part of the official organisation, namely, the  
28 Fundraising Committee, or - I don't know anything else,  
29 and I am not going to propound anything else. But what  
30 other ministers do has nothing to do with me. I am



1 dealing with the matter of Ray Burke now. You can  
2 confine your operations and your inquiries to what Mr.  
3 Burke could or could not have done. I am not  
4 interested in what other ministers do. I am not  
5 inquiring into other ministers. I am inquiring into  
6 Mr. Ray Burke's activities, nothing else.

7 .

8 MR. DUNNE: If I could just address you on that point?

9 .

10 CHAIRMAN: No, you can't. Just keep - that is a  
11 ruling. This is what I am interested in. That is what  
12 is relevant to this matter. That is it.

13 .

14 MR. DUNNE: I would ask you that you hear me before you  
15 make your ruling?

16 .

17 CHAIRMAN: No, I won't.

18 .

19 MR. DUNNE: Very well. Very well. Thank you Mr.  
20 Donovan.

21 .

22 MR. WALSH: Mr. Chairman, I have a number of questions  
23 for this witness.

24 .

25 CHAIRMAN: Certainly.

26 .

27 .

28 .

29 .

30 .

1 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. WALSH AS  
2 FOLLOWS.

3 .

4 402 Q. MR. WALSH: Mr. Donovan, I take it as a member of the  
5 committee, the National Fundraising Committee, you are  
6 obviously also a member of the Fianna Fail Party, is  
7 that correct?

8 A. Well, I have not paid any annual subscription.

9 403 Q. I see.

10 A. So, I cannot tell you whether I am a member or not.

11 404 Q. Well, at one stage when you started your involvement  
12 with the Fianna Fail Party, in the 1960s, at some stage  
13 in or about that time you must have joined as a member,  
14 is that correct?

15 A. Yes, I think that is so, yes.

16 405 Q. And then over the years, because you became so  
17 associated with Fianna Fail, somebody forgot to ask you  
18 for your annual subscription, and you forgot to pay  
19 them, something like that?

20 A. Yes, that could be the case.

21 406 Q. I see. And you indicated that there is some - the  
22 committee you are involved in was the National  
23 Fundraising Committee, and it has grown and contracted  
24 from year-to-year?

25 A. Correct.

26 407 Q. Over the last few decades?

27 A. Correct.

28 408 Q. And the composition, the personnel that make up such a  
29 committee, that has obviously changed from committee to  
30 committee over the years?

1 A. Correct.

2 409 Q. Yes. And you have been very careful and all the  
3 documentation coming from the Fianna Fail Party or  
4 their solicitors are very careful with the use of their  
5 words when they call it the "National Fundraising  
6 Committee", isn't that right? Does that mean that  
7 there are local fundraising committees as well?

8 A. I am not quite sure that - at what point you are trying  
9 to get at, but insofar --

10 410 Q. It is a very simple question.

11 .

12 CHAIRMAN: Just a moment. The witness is entitled to  
13 inquire what exactly you are talking about.

14 .

15 MR. WALSH: Well, I asked a very simple question.

16 .

17 CHAIRMAN: Well, ask it again.

18 .

19 411 Q. MR. WALSH: You have been very careful, or the Party or  
20 your solicitors, to call it "National Fundraising  
21 Committee." My question is: Is there a local  
22 fundraising committee or local fundraising committees,  
23 plural?

24 A. I presume there are local fundraising committees in the  
25 various constituencies.

26 412 Q. So, in other words, every constituency where Fianna  
27 Fail have a presence, which means every constituency in  
28 the country, in fact, isn't that correct, every  
29 constituency in the country has a Fianna Fail presence?

30 A. Yes.

1 413 Q. And so that means every constituency has a local  
2 fundraising committee organised by the local TDs or  
3 aspiring TDs?

4 A. I presume they have.

5 414 Q. Yes. And they would hold their own fundraising  
6 activities a couple of times a year, every year,  
7 election or no election, isn't that right?

8 A. That I can't confirm.

9 415 Q. Because you don't know anything about it?

10 A. I don't get involved - I am involved only in money that  
11 goes in to Mount Street.

12 416 Q. So you are involved in the bigger picture in Mount  
13 Street?

14 A. Yes.

15 417 Q. Yes. And do you know anything about the rules of  
16 Fianna Fail, as to what the locals are supposed to do  
17 when they have their little local fundraising down in  
18 Ballyferret or down in South Wexford?

19 A. I don't concern myself with the rules.

20 418 Q. Did you know that the Fianna Fail rules say all money  
21 raised, even at local level, are supposed to go back up  
22 to headquarters in Mount Street?

23 A. I don't concern myself with the administration of the  
24 funds from local constituencies.

25 419 Q. I know you don't concern yourself. The question I  
26 asked you is: Do you not know that the rules provide  
27 that if a local TD in Ballyferret or a local County  
28 Councillor in Ballyferret raises money at a race night  
29 or at a golf classic, that money is supposed to be  
30 accounted to Mount Street and transmitted to Mount

1 Street headquarters? Isn't that the rule?

2 A. That is for a race night or a golf classic. That is  
3 separate issue.

4 420 Q. Yes. Isn't that the rule? That the monies raised  
5 locally have to be transmitted to headquarters in Mount  
6 Street, where you work?

7 A. Well, I am not aware of that rule.

8 421 Q. Oh, I see. And there was a fundraising body years ago,  
9 Taca. Was that part of Fianna Fail or outside of  
10 Fianna Fail?

11 A. It was part of Fianna Fail.

12 422 Q. Were you involved with Taca when that was in existence?

13 A. Yes.

14 423 Q. And that was fundraising at the national level, and  
15 would come under the auspices of the National  
16 Committee, isn't that correct?

17 A. Yes.

18 424 Q. Yes. And how did you organise fundraising, and at what  
19 times of the year did Taca organise the fundraising?

20 .

21 MR. HANRATTY: Sorry, Sir. I think I have been  
22 resisting interjecting until now, but this is not an  
23 inquiry into Fianna Fail fundraising or any other Party  
24 fundraising or fundraising in general. The matter  
25 under inquiry here is allegations that Ernst Ottiwell  
26 was involved in a fundraising effort on behalf of Ray  
27 Burke/Fianna Fail. That is the issue which this  
28 witness has been asked to address and in respect of  
29 which he has given his testimony.

30 .

1 Now, Mr. Burke's own position, as I understand it, and  
2 subject to anything Mr. Walsh may wish to correct me  
3 on, is that he got three payments only from Brennan and  
4 McGowan, ú50,000 in 1982, ú60,000 in 1984, and ú15,000  
5 in 1985, and that these were political donations and  
6 were not the results of any fundraising that he was  
7 aware of.

8 .  
9 I know he gave somewhat different testimony in a  
10 different context, but he said that is what he was  
11 told, or had been told by Messrs. Brennan and McGowan.

12 But Mr. Burke's present position, as I understand it,  
13 is that the monies that he received were those three  
14 donations, and that he did not give them to Fianna  
15 Fail.

16 .  
17 So that in those circumstances, it appears to me that  
18 this line of questioning has no relevance to the issue  
19 into which you are looking, and it doesn't seem to me  
20 that an inquiry or an exploration of fundraising  
21 historically or contemporaneous is of any assistance to  
22 you in resolving that issue.

23 .  
24 MR. BRADY: Mr. Chairman, if I could articulate similar  
25 concerns at this line of questioning. In my respectful  
26 submission, for the reasons enumerated by Mr. Hanratty,  
27 it is completely irrelevant and unfair to this witness.

28 .  
29 CHAIRMAN: Mr. Walsh, I will give you a very short  
30 period to respond. I think you are entitled to a

1 response.

2 .

3 MR. WALSH: I think I am entitled to respond. I never

4 take up too much time.

5 .

6 CHAIRMAN: Would you be kind enough to go on with the

7 response and leave out whether you are good or bad at a

8 period of time.

9 .

10 MR. WALSH: Sorry, Sir. There is no need to change

11 your attitude towards me.

12 .

13 CHAIRMAN: I am not changing my attitude, Mr. Walsh. I

14 just want to get the job done with the relevance and --

15 .

16 MR. WALSH: I detected hostility towards me, and I

17 don't like --

18 .

19 CHAIRMAN: I have no need --

20 .

21 MR. WALSH: Then there is no need to shout.

22 .

23 CHAIRMAN: I have no reason to shout. Get on with the

24 job.

25 .

26 MR. WALSH: There is no need to use that phraseology.

27 .

28 Mr. Hanratty said they were the only three sums. The

29 evidence, the uncontradicted evidence from all the

30 witnesses, is that also, in addition, at election time,

1 relatively small sums of money were contributed by the  
2 Brennan and McGowan groups of companies. I think the  
3 evidence is that they ranged from €1,000 at various  
4 elections up to €5,000. That is in addition to the  
5 larger capital sums which are under investigation.  
6 That is the point I wish to correct.

7 .  
8 Now, there are, if - because there are other sums that  
9 were paid at election time, I think I am entitled to  
10 ask this witness, who is the Chairman of the National  
11 Fundraising Committee, a number of other pertinent  
12 questions, and if you or Mr. Hanratty think the  
13 questions are irrelevant, we can rule on them as we go  
14 along.

15 .  
16 CHAIRMAN: Well, I am certainly ruling that Taca was -  
17 the fundraising auspices which were carried out under  
18 the auspices of Taca is wholly irrelevant. I make that  
19 quite clear. I am making that ruling.

20 .  
21 MR. WALSH: Well, Sir, can I just indicate, you have  
22 made your ruling and I am bound by it. I will pass on.  
23 So we don't have to waste any more time on that topic.

24 .  
25 CHAIRMAN: Very good.

26 .  
27 425 Q. MR. WALSH: Now, Mr. Donovan, I want to move on to  
28 another topic. So the fundraising that you were aware  
29 of is the national fundraising, isn't that correct?

30 A. Yes.



1 426 Q. Yes. And is that organised by individual members of  
2 the committees going out and contacting people for  
3 money, or is it organised by delegating to the local  
4 constituency organisations a fundraising activity such  
5 as a golf classic or a race night?

6 A. No.

7 427 Q. How is it organised, then?

8 A. The members on the committee have their own connections  
9 and they solicit donations.

10 428 Q. I see. So it is a very personal type of fundraising,  
11 then?

12 A. Very personal type of fundraising.

13 429 Q. Yes?

14 A. It is person to person.

15 430 Q. Yes. And wouldn't that mean that TDs and ministers,  
16 themselves, in their own constituency area, they too  
17 can have their own personal fundraising activities?

18 A. I wouldn't know anything about that.

19 431 Q. Yes. But did you say that all politicians have their  
20 own local fundraising events, presumably with their own  
21 officials, isn't that right?

22 A. Yes, but I wouldn't know any of the details of this. I  
23 have a focus, I have a job to do. I chair a committee,  
24 it comprises of a number of members, and I try and  
25 organise that they bring in the funds.

26 432 Q. Yes?

27 A. Which go into headquarters.

28 433 Q. Yes. And meanwhile you are working away in your  
29 full-time job with your firm, isn't that correct?

30 A. No, I am not.

1 434 Q. Yes. No, but you have a firm, you are in business,  
2 isn't that correct?

3 A. I am not in business. I am 73 years of age.

4 435 Q. Sorry, yes.

5 A. You don't have to apologise for my age. I enjoy it.

6 436 Q. Mr. Donovan, you didn't indicate to me through your  
7 appearance that you were that old. I didn't understand  
8 that you may have retired.

9 .

10 CHAIRMAN: Mr. Walsh's charm is now coming out.

11 .

12 437 Q. MR. WALSH: Not often heard out here, I am afraid. But  
13 when you were in business before you reached the  
14 magical age, whatever it was, the fundraising wouldn't  
15 have been a full-time job for you, it was a part-time  
16 job, and you worked away in business?

17 A. It was never a full-time job for me.

18 438 Q. Yes. I see. And during the time of your fundraising,  
19 when you were in business, were you ever appointed to  
20 government boards?

21 A. Was I ever --

22 .

23 CHAIRMAN: That is an irrelevant question and should  
24 not be answered. It is totally irrelevant. It has  
25 nothing to do with fundraising, whether or not somebody  
26 - or the nature of a fundraising organisation of any  
27 political Party.

28 .

29 MR. WALSH: Yes.

30 .

1 CHAIRMAN: And that is a ruling.

2 .

3 439 Q. MR. WALSH: Very good. If that is your ruling.

4 .

5 Did you yourself ever have any political ambitions

6 yourself?

7 .

8 MR. BRADY: It is grossly unfair to that witness.

9 .

10 CHAIRMAN: I think that is grossly offensive to this

11 person. He is here as a witness of a particular type

12 in relation to the fundraising activities of the

13 Central Committee, or the Central Committee of Fianna

14 Fail, as I understand it. Whether he had political

15 ambitions or not is irrelevant. Again, that is a

16 ruling.

17 .

18 MR. WALSH: If that is your ruling, Sir, I am perfectly

19 happy to abide by it.

20 .

21 MR. WALSH: Thank you very much Mr. Donovan.

22 A. Thank you.

23 .

24 CHAIRMAN: Does anybody else want to ask any questions?

25 Thank you very much, Mr. Donovan, for coming down.

26 .

27 THE WITNESS THEN WITHDREW.

28 .

29 MR. HANRATTY: Mr. Sean Fleming please.

30 .

1 MR. SEAN FLEMING, HAVING BEEN SWORN, WAS EXAMINED BY

2 MR. HANRATTY AS FOLLOWS:

3 .

4 440 Q. Mr. Fleming, I think you are a member of the Oireachtas

5 at the present time?

6 A. I am indeed.

7 441 Q. I think between 1982 and 1997 you were employed

8 full-time by Fianna Fail as their Financial Controller?

9 A. That's correct.

10 442 Q. I think during that period you were based at Party

11 Headquarters in Dublin?

12 A. Correct.

13 443 Q. During that period did you ever hear of a Mr. Ernst

14 Ottiwell?

15 A. I never heard of him at all when I worked in the - at

16 the time when I worked in the Fianna Fail Head Office.

17 444 Q. To your knowledge, did any person by the name of Ernst

18 Ottiwell - was any person of that name ever involved in

19 fundraising on behalf of Fianna Fail?

20 A. Not to my knowledge.

21 445 Q. When was the first time you heard about Ernst Ottiwell?

22 A. The first time I heard about the gentleman's name was

23 last year when I was contacted by Fianna Fail Head

24 Office, with a query arising from the Tribunal, and an

25 inquiry from the Tribunal. That is the first time I

26 every ever heard of it.

27 446 Q. It has been stated in evidence in this Tribunal that

28 Mr. Ernst Ottiwell was engaged in extensive fundraising

29 activities on behalf of Ray Burke/Fianna Fail over a

30 period of time, involving a variety of activities,

1 primarily involving functions at Ascot and Cheltenham?

2 A. Well, I never heard of any such fundraising functions  
3 in Ascot or Cheltenham when I was in Fianna Fail Head  
4 Office.

5 447 Q. Do you believe that if substantial sums of money were  
6 being raised by such fundraising efforts, over a period  
7 of approximately ten years, that it is conceivable that  
8 you would not know about it?

9 A. If they were being raised for Fianna Fail I would have  
10 known about it. If they were being raised for an  
11 individual, I may not have known about it.

12 448 Q. Well, yes. The evidence has been that the fundraising  
13 was for Ray Burke/Fianna Fail?

14 A. Well, it wasn't for the benefit of Fianna Fail.

15 449 Q. And is it your opinion that if any substantial  
16 proportion of any such funds were donated to Fianna  
17 Fail, that you would have in one way or another found  
18 out about it during the period while you were Financial  
19 Controller of the Party?

20 A. Well, I was Financial Controller of the Party at  
21 national level, and if any fund at all had come to the  
22 Party at national level, I would have been fully aware  
23 of it.

24 450 Q. Thank you, Mr. Fleming. If you would answer any  
25 questions My Friends may wish to put to you.

26 .

27 CHAIRMAN: Mr. Dunne.

28 .

29 .

30 .

1 THE WITNESS WAS THEN EXAMINED BY MR. DUNNE AS FOLLOWS:

2 .

3 451 Q. MR. DUNNE: Thank you, Chairman.

4 .

5 Mr. Fleming I appear on behalf of Messrs. Brennan and

6 McGowan. I have just a few questions for you.

7 A. Fine.

8 452 Q. You say, I think, that you were employed as a Financial

9 Controller from 1982 to 1997?

10 A. That's correct.

11 453 Q. And that was Financial Controller at national level?

12 A. Yes, in Party Head Office.

13 454 Q. And prior to 1982, had you any role or input in the

14 financial control or financial affairs of Fianna Fail?

15 A. Prior to --

16 455 Q. 1982?

17 A. No, I didn't work in Fianna Fail Head Office before

18 that time I came in, in 1982.

19 456 Q. So, would it be fair to say that you wouldn't have any

20 knowledge of fundraisers, people who were organising

21 that in the '70s and '80s, prior to your becoming

22 employed and getting involved?

23 A. I would have no direct knowledge of any activities in

24 the 1970s, but from 1981 onwards, the year just around

25 the time I joined, I would have been aware from that

26 stage onwards.

27 457 Q. Right. Would you have been aware of every fundraiser,

28 every gentleman or woman who was involved in

29 fundraising?

30 A. You mean, individual or fundraising activities?

1 458 Q. Yes, individuals.

2 A. I would have been aware of all the people involved  
3 raising funds for the Party at national level, but not  
4 at constituency level.

5 459 Q. Okay. What about at, for want of a better way of  
6 putting it, non-national level, for instance, funds  
7 that were raised about it in America, or about it in  
8 the United Kingdom or --

9 A. Well, when I joined Fianna Fail Head Office in 1982, at  
10 that stage there was no fundraising outside the State  
11 at that point in time. After a few years, we commenced  
12 a small amount of fundraising organised by the Party at  
13 national level in the United States, and subsequent to  
14 that we did a very small amount of fundraising in the  
15 UK as well, later on in the 1980s, and we had no  
16 committee. They were organised from Dublin by people  
17 in Ireland, and there was no committee involved in the  
18 UK or the USA initially, until we set up some  
19 committees much later on in the 1980s.

20 460 Q. So are you saying that there was no, if you like,  
21 central organisation dealing with fundraising outside  
22 the jurisdiction until that time?

23 A. Yes.

24 461 Q. So if fundraising was to be done, outside the  
25 jurisdiction prior to that, it would have to be done on  
26 an individual basis?

27 A. It wouldn't have been sanctioned by the Party at  
28 national level. If an individual was doing it, that  
29 might have been done by an individual, but not by the  
30 Party.

1 462 Q. Right. Okay. And are you aware of any fundraisers  
2 that took place in the '80s outside of the  
3 jurisdiction?

4 A. Well, as I mentioned, we did some - carried out some  
5 activities in the USA, and we complied with all the  
6 registration requirements with the Department of  
7 Justice out there. And we had one fundraising  
8 luncheon, fundraising luncheon in London. I don't have  
9 the year in front of me now at this stage, but, you  
10 know, probably late 1980s, and people from Dublin  
11 travelled over to the event and we came back. And the  
12 funds would have been for the benefit of the Party at  
13 national level here in Ireland.

14 463 Q. Okay. In what way would such a fundraiser be packaged?  
15 Would it be fronted by front or high profile members of  
16 the Party?

17 A. Senior politicians would be - the work would have been  
18 carried out by the Fundraising Committee and ourselves  
19 as Party administrators, invitations and arranging the  
20 venues. We would have had a guess speaker, whatever  
21 senior politician as a guest speaker.

22 464 Q. Correct me if I am wrong, would that be because, you  
23 know, the ordinary grass-roots supporter or people who  
24 want to contribute, associate, if you like, the faces  
25 with the Party?

26 A. Of course they do. Sure, they are Party  
27 representatives.

28 465 Q. Yes. Yes. And I think you said in your evidence, if  
29 money was raised for an individual Party member, or  
30 minister, you wouldn't have any knowledge of that?



- 1 A. Not necessarily. Unless I specifically become --
- 2 466 Q. Correct me if I am wrong - I don't mean to put words in  
3 your mouth.
- 4 A. If an individual - the point I was making, at  
5 constituency level there would always be a small amount  
6 of fundraising at election times at each of the  
7 individual constituencies. There should have been  
8 substantial fundraising for private individuals. I  
9 would draw a clear distinction between raising funds  
10 for the local constituency organisation to the benefit  
11 of the Party in that constituency, and their election  
12 campaign versus funds for a private, for an individual  
13 person, which wasn't going into the Party funds at  
14 local level.
- 15 467 Q. And are you saying that it was official policy that it  
16 would go to the constituency?
- 17 A. Well, all funds collected in the name of the Fianna  
18 Fail Party at local level, certain items like a  
19 national collection, which we do door-to-door and at  
20 church gates, there will be a permit in the name of the  
21 national treasurers, that all that money which would be  
22 related to local fundraising activities, raffles, race  
23 nights, should all be lodged to the constituency, bank  
24 accounts in the constituency.
- 25 468 Q. Right. Would you accept that individual councillors,  
26 TDs, whatever, do a certain amount of fundraising for  
27 their own election campaign?
- 28 A. They would do some.
- 29 469 Q. Yes. And would you be aware of who their people are,  
30 who every individual who would help them out on an

1 individual basis would be?

2 A. Not in each of the constituencies.

3 470 Q. Very well. Would you accept that when you are fighting

4 an election, which seems to be a fairly daunting task,

5 I needn't say anything more about it - to you about

6 that; when you are fighting an election, it is all

7 hands on deck? Would that be fair to say?

8 A. Of course.

9 471 Q. And that any - the objective is to get as many people

10 elected as possible?

11 A. Correct.

12 472 Q. And therefore, if an individual councillor or

13 politician can do his own bit to get elected, that, in

14 effect, helps the Party, does it not?

15 A. Well, we would expect every single candidate to do

16 everything possible in their power to get as much votes

17 as possible.

18 473 Q. In effect, any donation to an individual politician or

19 councillor benefits Fianna Fail, does it not?

20 A. Not necessarily. If it is used for the benefit of the

21 election campaign, it is for the benefit of Fianna

22 Fail. If it is not used for the benefit of the

23 election campaign, it is not for the benefit of Fianna

24 Fail.

25 474 Q. If it is used for the individual for his election

26 campaign, his own election campaign?

27 A. Oh, yes. As I have said, each of the 41 constituencies

28 has to spend funds on the Local Election campaign, and

29 any funds on the campaign, the Party campaign at local

30 level, as well as the Party level at national level, is

1 good for the Party.

2 475 Q. Or the individual's campaign?

3 A. Oh, of course. Once it is on the election campaign,

4 not for the individual.

5 476 Q. As long as --

6 A. It is on the election campaign.

7 477 Q. Very good. Thank you very much, Mr. Fleming.

8 .

9 THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MR. WALSH:

10 .

11 478 Q. MR. WALSH: Now, Mr. Fleming, I have a couple of

12 questions to ask you. What you are saying is that

13 since 1997 you are a Teachta Dala. From that time on

14 you ceased being in the full-time employment of the

15 Fianna Fail Party?

16 A. That's correct.

17 479 Q. From approximately 1982 until 1997 you were a full-time

18 paid employee as a Financial Controller?

19 A. At Fianna Fail Head Office.

20 480 Q. In Fianna Fail Head Office?

21 A. Yes.

22 481 Q. So you knew the money coming in and the money coming

23 out to the Fianna Fail organisation at headquarters?

24 A. Yes.

25 482 Q. I see. And do you know anything about the rules of

26 Fianna Fail about which - which compel TDs or local

27 councillors to transmit their fundraising proceeds to

28 headquarters?

29 A. There was no such rule.

30 483 Q. There was no such rule. Was there any such practice

1 where - I'll just elaborate what I mean by "practice" -  
2 whereby headquarters would require, if there was a  
3 fundraising activity such as a race night or a golf  
4 classic, or whatever organised in a local constituency  
5 by a TD or a councillor, that the proceeds of that  
6 fundraising, after the lunches or the drinks or the  
7 posters are paid for, that the net proceeds get  
8 transmitted to Mount Street; that they are kept then in  
9 Mount Street and a proportion is sent back to the local  
10 constituencies or local constituency?

11 A. Where that rule applies is specifically in relation to  
12 our annual Party's national collection, whether it is  
13 by a door-to-door collection or a church gate  
14 collection, where the permit obtained nationally is in  
15 the name of the national treasurers. In that situation  
16 all funds would come directly, and we would remit a  
17 proportion of it back to the constituency.

18 .

19 But like race nights, you mentioned if a constituency  
20 ran a race night and they had a profit, they would put  
21 it into their constituency Party official account for  
22 the Local Election, for the campaign at local level the  
23 next time out.

24 484 Q. The rule about transmitting the proceeds and the  
25 returns to headquarters in Dublin only applies to the  
26 so-called annual collection?

27 A. Yes, where it would be in the name of the national  
28 treasurers.

29 485 Q. Yes.

30 A. Race nights and Party draws and cabarets at local

1 level, those funds wouldn't be collected in the name of  
2 the national treasurers. They would be collected in  
3 the name of the constituency, the Fianna Fail  
4 constituency.

5 486 Q. So if a local TD such as Mr. Burke, when he was a TD,  
6 organised a race night or a golf classic, he would keep  
7 all those funds in his constituency?

8 A. In the constituency account, but not in a personal  
9 account. In the Party's account in the constituency  
10 would in order, yes.

11 487 Q. Yes. Well, you know that Mr. Burke has retired from  
12 politics now. His evidence has been that there is in  
13 excess of €100,000 left in his political account from  
14 his political life?

15 A. Well, that is news to me. I have heard that statement  
16 as a result of the Tribunal, but I was never aware that  
17 there was such a fund at all in his name, until it came  
18 out here, at this Tribunal.

19 488 Q. Yes. Are you aware - you were Financial Controller  
20 yourself, in 1989, isn't that right, during that  
21 General Election campaign?

22 A. I was, yes.

23 489 Q. Yes. Do you know that Mr. Burke paid in a bank draft  
24 of €10,000?

25 A. I certainly do. I have made a statement in the Dail  
26 about it, and it is not - it is very much in the public  
27 record. I transmitted that statement to the Tribunal  
28 immediately I made it in the Dail, so that was very  
29 well documented.

30 490 Q. So, he did account to the Party for €10,000 at that

1 election?

2 A. ú10,000 only.

3 491 Q. Yes. But how did that compare with other politicians

4 transmitting monies on from their fundraising efforts

5 in that election?

6 A. Well, I am not aware of that.

7 .

8 CHAIRMAN: That is a matter that is not relevant.

9 .

10 MR. WALSH: Could I just address you on that, Sir, very

11 briefly?

12 .

13 CHAIRMAN: Yes, certainly.

14 .

15 MR. WALSH: I know at the moment, Sir, I am between two

16 stools here. That is why I ask your guidance about a

17 your ruling.

18 .

19 CHAIRMAN: Certainly.

20 .

21 MR. WALSH: With respect. At one stage in the Tribunal

22 when Mr. Burke was giving evidence, he was being dealt

23 with in what was called the "Ray Burke Financial

24 Module". We have since passed on from that to the

25 Brennan and McGowan Module. And I know that Mr.

26 Hanratty is calling these gentlemen witnesses in the

27 Brennan and McGowan Module to deal with the Ernst

28 Ottiwell topic, but if just for a moment, look to the

29 topic of the Ray Burke Financial Module.

30 .

1 When Mr. Burke was giving evidence or was being asked  
2 questions in the framework of that module, he was asked  
3 about the amount of monies he had raised and how it was  
4 spent, and questions were put to him criticising the  
5 quantum of money he raised in fundraising and  
6 criticising the quantum of money he spent. When he  
7 said it cost a certain amount to run a constituency, he  
8 was ridiculed by the questioner. I intervened on a  
9 number of occasions and said, "How can you possibly  
10 make a judgement without calling comparative evidence?"  
11 And here we have, My Lord, the Financial Controller at  
12 the relevant time. Now, he has all the information.  
13 .  
14 Now, I am asking for guidance here, Sir. Do I ask  
15 these witness these questions now about the fundraising  
16 of other TDs and ministers at that time and since? The  
17 sort of money they earned? Was it the same as Mr.  
18 Burke or greater than Mr. Burke? What they did with  
19 it? Did they keep it all to themselves to run their  
20 own constituency organisation and collection campaigns  
21 until the elections come around, or did they transmit  
22 it all or part of it to Party Headquarters?  
23 .  
24 And also, if they raised large sums of monies in annual  
25 dinners at various venues, was the fact that the monies  
26 raised by them was so large, a reflection of the  
27 reality that it cost a lot of money to run a political  
28 life and a political campaign?  
29 .  
30 These are all - this is all directly relevant evidence,

1 because if you are hearing evidence from Mr. Burke in a  
2 vacuum, you are doing an injustice to Mr. Burke because  
3 you have nothing to compare it against. The only thing  
4 you can compare it against is hard fact and evidence  
5 from other independent people. Here we have a man who  
6 may well himself have information on fundraising of TDs  
7 and ministers, and it is in that context that I wish  
8 permission to ask on this line of questioning which  
9 should be, for example, what present government  
10 ministers do, and what they have done in the past five  
11 years in their own constituencies for fundraising, the  
12 annual dinners they hold at various venues, the sort of  
13 money they earn, which has been referred to in various  
14 media publication as being in excess of the sort of  
15 money we are talking about here. And then, does it  
16 cost that sort of money to run their local  
17 constituencies.

18 .

19 Sir, in respect, that evidence is there, and it should  
20 be received by you in the context of the Raphael Burke,  
21 Raphael Burke Financial Module. I know it is not  
22 directly relevant to the topic dealing with Ernst  
23 Ottiwell in the Brennan and McGowan Module.

24 .

25 Now, if you say today isn't the appropriate day for  
26 that, will you be recalling Mr. Fleming or recalling  
27 other witnesses to give this evidence at a future date?

28 .

29 Now, I know in correspondence over other topics we have  
30 asked for permission to call witnesses, and you have



1 ruled that it is for you and the Tribunal to call  
2 witnesses. It is not for us to call witnesses or to go  
3 out and get evidence. What I am saying and submitting,  
4 Sir, is that comparative evidence goes to the essence  
5 of these financial matters.  
6 .  
7 Now, if you are going to park that topic altogether and  
8 not bother going down the line of how much did Mr.  
9 Burke raise in the various years, how much did it cost  
10 him to run his political life and political activities,  
11 well, none of this evidence is relevant. But so far  
12 and to date the Tribunal seems to be pursuing Mr. Burke  
13 down the line that he earned or raised a lot of money  
14 in fundraising, and that he couldn't have possibly  
15 spent all on political activity. He said he spent it  
16 all, bar the €110,000 odd whatever is left in his  
17 political fund, to fund his political life, and that  
18 when he retired, that was the sum of money, that was  
19 this.  
20 .  
21 He has given facts and figures as to how much it cost  
22 him to run his General Election campaigns and his  
23 general political life when he was a TD or Minister.  
24 It is in that context that I say that this line of  
25 questioning is relevant.  
26 .  
27 Now, if you rule against me today, I would like an  
28 indication as to whether you are going to call back  
29 these witnesses or other witnesses to give comparative  
30 evidence at a future date? If you are not, well then,

1 I need to know are you going to ignore this line of  
2 questioning, because if you are not going to call back  
3 these witnesses and you are going to keep pursuing  
4 Mr. Burke on this topic, I think it is doing a grave  
5 injustice to Mr. Burke.

6 .

7 MR. HANRATTY: Sir -

8 .

9 CHAIRMAN: Mr. Hanratty?

10 .

11 MR. HANRATTY: The first thing to say is that the  
12 €10,000 which Mr. Walsh mentioned to the witness is a  
13 very particular payment made by Mr. Burke to Fianna  
14 Fail in very particular circumstances, and you have  
15 already heard evidence about that, and I suggest,  
16 respectively, that there is no basis on which it should  
17 be reopened. That evidence, I think, was heard in the  
18 Gogarty module.

19 .

20 With regard to Mr. Walsh's submission that he should be  
21 permitted to ask questions from this witness or  
22 otherwise request or require the Tribunal to lead  
23 evidence about political donations or fundraising of  
24 other politicians, this issue has already been dealt  
25 with by you in correspondence.

26 .

27 On the 31st of October, 2001, Messrs. Shannons opened  
28 or sent a letter to the Tribunal, and the Tribunal  
29 replied to that letter on the 1st of November, 2001. I  
30 am going to, with your permission, Sir, open those two

1 short letters. But before I do, can I just remind you,

2 Sir, of the matter which is under inquiry.

3 .

4 The matter which is under inquiry are substantial  
5 payments of money made by Messrs. Brennan and McGowan

6 to Ray Burke in offshore accounts. In one case the  
7 ú50,000 in 1982 into a bank account opened under a

8 pseudonym of Mr. Burke's name in the Isle of Man.

9 Secondly, a payment of ú60,000 put into a company

10 opened in Jersey in the - in 1984 by Mr. Burke, a

11 company account in the name of Caviar Limited. And a

12 further payment of ú15,000 in 1985 into the same

13 account. That is the matter into which the Tribunal is

14 inquiring in this particular section of the evidence.

15 .

16 And in my respectful submission, the line of

17 questioning which Mr. Walsh is endeavoring to open is

18 wholly and utterly irrelevant to that line of inquiry.

19 What other fundraising or other politician does in

20 their fundraising is not a matter which is relevant and

21 is not a matter which you are entitled, in my

22 respectful submission, to inquire into.

23 .

24 Now, if I can just open the correspondence briefly,

25 Sir. The letter from Shannons dated the 31st of

26 October, 2001, it says:

27 .

28 "Re our client: Raphael P Burke. Forthcoming

29 witnesses: Sean Fleming, Hugh Dolan, Roy Donovan.

30 .

1 Dear Sirs, we refer to the forthcoming appearance of  
2 the above-named witnesses before the Tribunal.

3 .

4 We wish to question these witnesses on current and past  
5 fundraising methods adopted by senior politicians  
6 within the Fianna Fail Party.

7 .

8 Yours faithfully Shannons Solicitors."

9 .

10 I should draw your attention to the fact, Sir, that  
11 although that letter wasn't sent on the 31st of  
12 October, 2001, the statements of these three witnesses  
13 were in the possession of Shannons for approximately  
14 for five weeks. The Tribunal replied, on your  
15 direction, on the 1st of November, 2001. It says:

16 .

17 "Dear Sirs, I refer to the above" - that is Mr. Raphael  
18 Burke - "and your letter of the 31st of October, 2001.

19 .

20 The matter at present being inquired into by the  
21 Tribunal relates, inter alia, to payments made by  
22 Messrs. Brennan and McGowan to your client Raphael P  
23 Burke.

24 .

25 The Fianna Fail witnesses due to be called tomorrow are  
26 being called arising from the evidence which the  
27 Tribunal has heard to the effect that Mr. Ernst  
28 Ottiwell was involved in fundraising for  
29 Mr. Burke/Fianna Fail. This would be apparent from the  
30 statements of the said witnesses which were circulated

1       some five weeks ago.

2       .

3       The Sole Member has directed me to inform you that he  
4       does not see the relevance of your proposed questioning  
5       of the said witnesses on current and past fundraising  
6       methods adopted by senior politicians within the Fianna  
7       Fail Party. The three witnesses in question will be  
8       called arising from the evidence relating to the  
9       alleged fundraising activities of Mr. Ernst Ottiwell.

10       The fundraising methods adopted by senior politicians  
11       within the Fianna Fail Party, or indeed any other party  
12       are not relevant to that evidence."

13       .

14       So with respect, Sir, you have already dealt with that  
15       issue. You have informed them in correspondence of  
16       your decision that the matter is not relevant. I  
17       respectfully submit that nothing has changed, and what  
18       Mr. Walsh appears to be doing is to try and go behind  
19       the ruling contained in your letter of the 1st of  
20       November. And I respectfully submit there is no basis  
21       for doing that.

22       .

23       MR. WALSH: Sorry, Sir, there is just one point there.  
24       I did say that there were two modules here which are  
25       overlapping. I did say that I know you are dealing in  
26       this present module with Mr. Ernst Ottiwell's  
27       involvement. That is clearly set out in your letter.  
28       And I did say that the difficulty that I had was that  
29       as a result of the line of questioning Mr. Hanratty  
30       adopted with Mr. Burke about his fundraising amounts

1 and expenditure, that I submitted that it was relevant  
2 in that context to ask this witness about those topics.  
3 I did invite you, Sir, that if you thought today was  
4 not the suitable day, I wanted to know, were you going  
5 to recall this witness or other suitable witnesses at a  
6 future date to deal with comparative evidence. Because  
7 there is no point in picking figures out of the sky in  
8 Mr. Burke's case and trying to come to some objective  
9 judgement on them. That is the basis for it.

10 .

11 Mr. Hanratty hasn't addressed that point at all.

12 .

13 CHAIRMAN: I am satisfied that I defined the issue in  
14 my response of the 1st of November, that the witnesses  
15 called today are being called arising from the evidence  
16 which the Tribunal has heard to the effect that  
17 Mr. Ernst Ottiwell was involved in fundraising for  
18 Mr. Burke/Fianna Fail.

19 .

20 I am satisfied that that is the issue which I am  
21 addressing at this moment in time. I see no relevance  
22 to what other politicians may or may not have done in  
23 the past, or how they approached it.

24 .

25 I am also satisfied of this fact, that it is  
26 undoubtedly true that local committees do raise funds,  
27 but the nature and extent of these is that they are  
28 raised for election purses, and that they are  
29 channelled through the Party organisation and the Party  
30 accounts, and are accounted for or accountable. This

1 is not the evidence of Mr. Burke, that he accounted for  
2 any to the organisations in any form. I have no doubt  
3 that I am quite correct in saying that this line of  
4 questioning by Mr. Walsh is irrelevant.

5 .

6 MR. WALSH: Sorry, Sir. Just two points. I accept  
7 your ruling.

8 .

9 CHAIRMAN: Mr. Walsh, once I have made a ruling, I will  
10 not be addressed on my ruling. If you don't like the  
11 ruling, you have a choice: You either obey it or you  
12 go down to the High Court and reverse it.

13 .

14 MR. WALSH: There is no need to threaten me, Sir.

15 .

16 CHAIRMAN: I am not threatening you. I am ruling, as  
17 Sole Member of this Tribunal, as to what is the  
18 procedure in this Tribunal. I am going to insist on  
19 it.

20 .

21 MR. WALSH: Sir, I am just rising to my feet to mention  
22 two points: The first point is to acknowledge that you  
23 have made a ruling, and that I am agreeing with your  
24 ruling, and I am passing on from it. That is the first  
25 point. I think you should at least have the courtesy  
26 to let me acknowledge that I am obeying your ruling.  
27 That is the first point.

28 .

29 Now, the second point is a matter of grave concern. I  
30 just heard you utter the words, which sound to me like

1 a judgement, that you have no doubt that you are  
2 satisfied that other politicians, unlike Mr. Burke,  
3 organised their own local constituency fundraising  
4 activities and sent the monies up to headquarters.  
5 That is not what the evidence of this witness, no less  
6 than five minutes ago, was. He said that the only  
7 monies sent to National Headquarters were the ones  
8 raised under the guise of the --

9 .

10 CHAIRMAN: Mr. Walsh, you are quoting me incorrectly.  
11 I said they acknowledge it to the Party organisation at  
12 local level. That is what I said.

13 .

14 MR. WALSH: Sorry, Sir, I misheard that.

15 .

16 CHAIRMAN: There is no question about it.

17 .

18 MR. WALSH: Sorry, I haven't got the monitor in front  
19 of me. That was my recollection, and I stand  
20 corrected, if that is what it says on your monitor.

21 .

22 MR. WALSH: Thank you very much, Mr. Fleming.

23 .

24 CHAIRMAN: Thank you Mr. Fleming.

25 .

26 THE WITNESS THEN WITHDREW.

27 .

28 MR. HANRATTY: Mr. Hugh Dolan, please.

29 .

30 .



1 THE WITNESS WAS THEN EXAMINED AS FOLLOWS BY MR.

2 HANRATTY:

3 .

4 492 Q. MR. HANRATTY: Mr. Dolan, are you the Financial  
5 Controller of the Fianna Fail Party?

6 A. I am indeed, yes.

7 493 Q. And for how long have you held that position?

8 A. Since February, 1998.

9 494 Q. And did you undertake a number of inquiries within the  
10 Fianna Fail Party from a number of persons, pursuant to  
11 requests for information from the Tribunal?

12 A. I did indeed, yes.

13 495 Q. And did you direct your inquiries towards the question  
14 of ascertaining whether you could find any evidence of  
15 fundraising by Mr. Ernst Ottiwell?

16 A. I did indeed.

17 496 Q. In the course of those inquiries, did you interview Mr.  
18 Roy Donovan, Chairman of the Fianna Fail National  
19 Fundraising Committee, who has just given evidence  
20 here, Mr. Des Hanafin, the national fundraiser for  
21 Fianna Fail in the 1970s, early 1980s. Mr. Paul  
22 Kavanagh, the national fundraiser for Fianna Fail in  
23 the early 1908s to the early 1990s. Mr. Sean Fleming,  
24 Financial Controller of Fianna Fail between 1982 and  
25 1997, who has just given evidence. And Mr. Des  
26 Richardson, the Fianna Fail national fundraiser,  
27 between the years 1993 and 1999. And also Mr. Sean  
28 Sherwin?

29 A. I did indeed.

30 497 Q. And what did you find out from them in relation to

1 fundraising from Mr. Ernst Ottiwell?

2 A. None of them were aware of Mr. Ottiwell in any Fianna

3 Fail context whatsoever.

4 498 Q. At national level or at any level?

5 A. At any level.

6 499 Q. Did you make additional inquiries from other

7 individuals within the Party in relation to Mr.

8 Ottiwell?

9 A. I did indeed, yes.

10 500 Q. And could you give examples of the other individuals

11 that you interviewed?

12 A. At local level I spoke to a number of individuals in

13 the Dublin North constituency, some past chairs of the

14 Dublin North organisation, and specifically in Michael

15 Brady, the secretary of the Fianna Fail organisation in

16 Dublin North, and also Mr. Tony Lambert, who was also

17 involved in the Fianna Fail organisation in Dublin

18 North.

19 501 Q. I didn't. You have heard that the allegation has been

20 that at annual fundraising events in the United Kingdom

21 at Cheltenham and/or Ascot, that substantial sums of

22 money were raised for Ray Burke/Fianna Fail?

23 A. Yes.

24 502 Q. Did you find any evidence of the proceeds of any such

25 fundraising evident, if it occurred, ever having been

26 remitted to any part of the Fianna Fail?

27 A. Certainly I found no evidence that it had been remitted

28 to Fianna Fail headquarters. In fact, I found no

29 evidence that it had been remitted to any Party of

30 Fianna Fail.

1 503 Q. Did you also make inquiries in Mr. Burke's  
2 constituency?

3 A. I did indeed, yes.

4 504 Q. Did you speak to Mr. Michael Brady?

5 A. Michael Brady, yes.

6 505 Q. Is he the secretary of the Fianna Fail organisation in  
7 that constituency?

8 A. Not at the moment, but he was for a substantial part of  
9 the period that we were looking at here.

10 506 Q. I see. And what did he tell you?

11 A. He wasn't aware of Mr. Ottiwell being involved in any  
12 Fianna Fail fundraising either.

13 507 Q. In the course of your inquiries, did you also look at  
14 the cash receipts book of Fianna Fail?

15 A. I did indeed, yes, for the period 1981 to 1987.

16 508 Q. Did you find any record of any monies donated from Mr.  
17 Ernst Ottiwell in the cash receipts book?

18 A. None.

19 509 Q. If Mr. Ottiwell had donated substantial sums of money,  
20 or indeed any sums of money to Fianna Fail, would you  
21 expect to find it in the cash receipts book?

22 A. I would have expected to, yes.

23 510 Q. I think you did find a number of contributions from  
24 Messrs. Brennan and McGowan in the cash receipts book?

25 A. That's true, yes.

26 511 Q. And these ranged over a number of years, is that right?

27 A. Yes.

28 512 Q. And how much approximately did they amount to?

29 A. They totalled to approximately ú5,000. They were small  
30 contributions.

1 513 Q. Yes. And were these kind of run-of-the-mill  
2 contributions made by Brennan and McGowan as would have  
3 been made by many other individuals?

4 A. Yes, indeed. They didn't stand out compared to any  
5 other contributions.

6 514 Q. But they were paid to Fianna Fail by way of political  
7 contributions, is that right?

8 A. Yes, that is true.

9 515 Q. Now, if I could just refer you very briefly to some  
10 extracts from the evidence which has been given by Mr.  
11 McGowan. On Day 285 the question was put to him:  
12 .  
13 "Question: And yet when came to give your evidence on  
14 Day 144, you had no recollection of this singular  
15 event. This is the payment of ú60,000.  
16 Answer: Not in the sense of the source, Ms. Dillon,  
17 but I did have a recollection. There was quite an  
18 amount paid over to Fianna Fail at that stage."  
19 .  
20 This is now in 1984. Did you find any evidence of any  
21 such a payment or part of that payment being made by  
22 Mr. Ottiwell directly to Fianna Fail?

23 A. No evidence of any payments from Mr. Ottiwell.

24 516 Q. Mr. McGowan was asked by Mr. Ottiwell, and he says:

25 Answer: Correct.

26 Question: Drawn on a bank account you knew nothing  
27 about?

28 Answer: Correct.

29 Question: Paid by a cheque, presumably by Mr.  
30 Ottiwell?

1 Answer: Indeed.

2 Question: Do you have any record of ever having  
3 received any cheque from Mr. Ottiwell?

4 Answer: No.

5 .

6 On Day 285 at question 501, the question to Mr. McGowan  
7 was:

8 .

9 "Question: I would like you to deal with your evidence  
10 and concentrate on the questions you are being asked  
11 about your evidence."

12 .

13 Question 262 by Mr. O'Neill.

14 .

15 "Question: Mr. McGowan, in summary, would it be  
16 correct to say that for approximately 12 years or so  
17 you operated as a fundraiser for Mr. Burke/Fianna Fail  
18 hosting annual events and paying over sums of not less  
19 than €10,000 a year?

20 Answer: That's correct.

21 Question: Would that be a fair summary? Yes?

22 Answer: That's right.

23 Question: Right. So your evidence now, was that over  
24 the 12 year period you paid not less than €10,000 to  
25 Ray Burke/Fianna Fail. That is €10,000, Mr. McGowan --

26 Answer: Yes, Ms. Dillon, it is €120,000, but as I said  
27 in my evidence, some of that money went to Ray Burke  
28 and some of it - I am only assuming, because as I say,  
29 I didn't have the distribution of it but I can assure  
30 you that some of it went directly to Fianna Fail

1 through Mr. Ottiwell."

2 .

3 I take it, you haven't found any evidence of any such

4 payments?

5 A. No.

6 517 Q. At Day 286, question 2, the question was:

7

8 "Question: You recollect yesterday, Mr. McGowan, that

9 when you were giving your evidence, you recollected

10 that Mr. Ottiwell may have paid some of the funds that

11 were collected for Ray Burke to Fianna Fail

12 Answer: I did."

13 .

14 And at question 6 the question was:

15

16 "Question: You suggested yesterday that some of the

17 monies that had been raised in your fundraising

18 activities with Mr. Ottiwell may have been directed

19 towards Fianna Fail.

20 Answer: Absolutely."

21 .

22 And at Day 286, at question 151, the very point was put

23 to him about the complete absence of any records within

24 Fianna Fail of any such payments. And the question was

25 as follows:

26 .

27 "Question: Therefore, the absence of any records in

28 Fianna Fail indicating that Mr. Ottiwell was, in fact,

29 such a supporter or paid any money is a fairly strong

30 indication that no funds were paid to Fianna Fail by

1 Mr. Ottiwell?

2 Answer: I don't agree with that.

3 Question: And there are no records available in

4 Fianna Fail that indicate Mr. Ottiwell was a source of  
5 funds to Fianna Fail

6 Answer: Well, I don't accept that.

7 Question. You don't accept that you say there are  
8 records in Fianna Fail

9 Answer: There is no question or doubt there has to be.

10 Question: You say that there must be records that  
11 show Mr. Ottiwell --

12 Answer: Making contributions."

13 .

14 So he appears to be insisting in that answer that there  
15 were such records. Do you confirm that there are not  
16 in fact any such records?

17 A. There are none, no.

18 518 Q. And on Day 287, question 81, the question is:

19

20 "Question: What was your understanding, Mr. McGowan,  
21 of where the monies/fundraising by yourself and Mr.  
22 Ottiwell were to go?

23 Answer: As I have already said, Ms. Dillon, to Ray  
24 Burke/Fianna Fail. Ray Burke was our link person with  
25 Fianna Fail.

26 Question: Right. And those monies could, if I  
27 understand you correctly, have been transferred to  
28 Fianna Fail either directly or through Mr. Burke.

29 Answer: That's correct."

30 .

1 So, there are other instances, I don't propose to deal  
2 with them exhaustively, but you can see that the  
3 general gist of it is that Mr. McGowan was quite  
4 consistent in his evidence at any time he was asked  
5 about it, that these funds were raised by Mr. Ottiwell  
6 and paid directly to him or by him to Fianna Fail, and  
7 you have given evidence here today that Fianna Fail has  
8 no record of that, is that so?

9 A. That's true, yes.

10 519 Q. Did you also speak to Mr. Tony Lambert in Dublin North?

11 A. I did indeed yes.

12 520 Q. What did he tell you?

13 A. He told - he confirmed also that he was unaware of Mr.  
14 Ottiwell being involved in any fundraising, in fact.

15 521 Q. Thank you very much. If you would answer any questions  
16 my colleagues may have for you?

17 A. Thank you.

18 .

19 THE WITNESS WAS HEN CROSS-EXAMINED BY MR. DUNNE AS

20 FOLLOWS:

21 .

22 522 Q. MR. DUNNE: Mr. Dolan, I appear on behalf of Messrs.

23 Brennan and McGowan. I have a few questions for you,

24 if you wouldn't mind.

25 .

26 Mr. Dolan, I think you said that you were the Financial  
27 Controller since February 1998, is that correct?

28 A. That is correct, yes.

29 523 Q. Were you involved in the financial control or the  
30 finances of the Party prior to 1998?



1 A. No, not at all.

2 524 Q. So would it be fair to say that you can't give any  
3 direct evidence in relation to anything that happened  
4 prior to 1998?

5 A. I have no personal knowledge, no.

6 525 Q. Thank you. You say that you undertook a number of  
7 inquiries from individuals in relation to the questions  
8 of the Tribunal, or the information that the Tribunal  
9 were seeking?

10 A. Sure.

11 526 Q. And in your statement, I think you said in - you said  
12 it in direct evidence as well, you made inquiries of  
13 Roy Donovan?

14 A. That is true, yes.

15 527 Q. And Des Hanafin, Paul Kavanagh, Sean Fleming and Des  
16 Richardson?

17 A. That is true.

18 528 Q. In your statement and your direct evidence as well, you  
19 outlined the various roles of those gentlemen; Roy  
20 Donovan as the Fianna Fail National Fundraising  
21 Committee. Des Hanafin, national fundraiser for Fianna  
22 Fail. Paul Kavanagh, national fundraiser. Sean  
23 Fleming, Financial Controller, and his own evidence was  
24 that he was Financial Controller at national level.  
25 And Des Richardson, Fianna Fail national fundraiser.

26 .

27 Did you inquire of anybody who would be involved in  
28 fundraising that would be outside of national level,  
29 did you inquire of anybody who would have been involved  
30 in fundraising in the United Kingdom or in the United

1 States?

2 A. Some of the individuals I spoke to, as in Sean Fleming  
3 and Roy Donovan and Des Hanafin, I did ask the whole  
4 question of fundraising outside the jurisdiction. My  
5 understanding is that fundraising events were not  
6 organised by Fianna Fail prior to about the mid-to-late  
7 1980s in the UK.

8 529 Q. Yes. But the question I asked was, did you, did you -  
9 these gentlemen seem to be primarily involved in  
10 fundraising at national level. Did you - it is a  
11 simple "yes" or "no", did you inquire of anybody who  
12 was directly involved in fundraising outside of a  
13 national level, whether or not they knew of Mr.  
14 Ottiwell?

15 A. I understand there were no such events, there was no  
16 people that I could have inquired of.

17 530 Q. Did you make inquiries?

18 A. I made inquiries as to whether there was such events,  
19 and I was told that there were not.

20 531 Q. Who, to your understanding, were the people involved in  
21 fundraising outside of national level?

22 A. You mean, in relation to the events --

23 532 Q. Events in the UK or United States. I think Mr. Fleming  
24 said there were, in the late '80s, events in the United  
25 Kingdom and United States?

26 A. As in who -

27 533 Q. - organised the fundraising events, who were involved  
28 in what fundraisers --

29 A. Were you talking about the period of the early 1980s or  
30 late 1980s.

1 534 Q. The period in the 1980s when Fianna Fail held  
2 fundraisers in the United States or the UK?

3 A. In the late 1980s the fundraising events in the UK,  
4 Sean Fleming would have been aware of them, so I did  
5 ask him that question.

6 535 Q. He was involved in running them.

7 .

8 MR. HANRATTY: Again, Sir, I think we are straying into  
9 an area of irrelevance, because we are now talking  
10 about the late 1980s, which is long after the event  
11 being inquired into.

12 .

13 CHAIRMAN: Yes.

14 .

15 MR. DUNNE: In relation to that, Sir, what I am trying  
16 to elicit, in effect, is whether or not inquiries were  
17 made of people who were directly involved in  
18 fundraising events in the United Kingdom, albeit the  
19 evidence of witnesses has been that these official  
20 fundraisers in the United Kingdom and the United States  
21 only took part in the '80s, it is relevant from the  
22 point of view that people who would have been involved  
23 in the United Kingdom and in America fundraising may  
24 have been aware of people who had been involved prior  
25 to any official --

26 .

27 CHAIRMAN: In my view it is relevant to an inquiry as  
28 to whether there were official or appropriate Fianna  
29 Fail fundraising activities in the United Kingdom. We  
30 are not inquiring into America, under any

1 circumstances. Nobody has ever addressed America in  
2 this matter.

3 .

4 The witness has said that as far as he is, he  
5 understands there were no such events earlier than, I  
6 understood him to say the late 1980s, and I think  
7 Counsel for the Tribunal is correct in saying that the  
8 period involved here is prior to that.

9 .

10 You are perfectly entitled to find out (A) were there  
11 any fundraising activities in the 1980s when - what I  
12 call the early 1980s, before 1985, and whatever the  
13 answer is, and I don't know it, that is it.

14 .

15 You are certainly equally entitled to say was there  
16 fundraising activities in the United Kingdom and how  
17 were they organised. And in particular, was Mr. Ernst  
18 Ottiwell one of the known organisers. That is  
19 obviously very germane to your inquiry. Now, in those  
20 parametres you are free to proceed.

21 .

22 MR. DUNNE: Thank you, Sir.

23 .

24 In relation to the United States, the only reason I  
25 brought that in, I didn't want to be too specific.

26 .

27 CHAIRMAN: Leave out the United States, it is out.

28 .

29 536 Q. MR. DUNNE: I am just explaining to you why I brought  
30 it in.

1 .  
2 Are you aware of any fundraising activities that went  
3 on in the United Kingdom in the early 1980s?

4 A. No.

5 537 Q. If there were informal, or fundraising activities, or  
6 fundraisers, or, if you like, non-official, for want of  
7 a better way of putting it, fundraising activities by  
8 Fianna Fail sponsors or Fianna Fail members, in the  
9 early 1980s in the United Kingdom, would you  
10 necessarily be aware of them?

11 A. No, if they weren't sanctioned.

12 538 Q. So, if individual politicians or whoever, or party  
13 activists were involved in fundraising in the early  
14 1980s, you wouldn't necessarily know who their people  
15 were, or the way they went about the activity?

16 A. That is true, yes.

17 539 Q. I see. You say that as well as those five individuals  
18 who you inquired about, you say that you inquired from  
19 a number of, from a number of other individuals?

20 A. That's true, yes.

21 540 Q. And I think you said that these individuals were people  
22 who worked at local level. Is that correct?

23 A. Yes, that is true.

24 541 Q. And did you ever see about inquiring from any known  
25 Fianna Fail supporters who are in England, as to  
26 whether or not they had attended a fundraiser in the  
27 early '80s, or whether or not they had ever been at a  
28 fundraiser in Cheltenham?

29 A. No.

30 542 Q. Why not?

1 A. Because as far as I was concerned there were no such  
2 events, that was my understanding.

3 543 Q. Well, surely the only way you can be sure of that is if  
4 you checked with people who would be likely to be at  
5 such fundraisers?

6 A. Well, in addition to that, obviously - another way to,  
7 obviously, to check that would be to talk to people who  
8 had been involved in Fianna Fail fundraising, which is  
9 certainly what I did, and to ask them if they had been  
10 involved in organising such events.

11 544 Q. But it would appear that all the people you inquired  
12 from are people who were involved primarily at national  
13 level, and if there were unofficial or informal  
14 fundraisers in England in the early '80s prior to, it  
15 would appear from the evidence, Fianna Fail getting, if  
16 you like, an official policy of fundraising in the  
17 United Kingdom, surely the only way to be sure in  
18 relation to (A) what fundraisers took place, and (B)  
19 who was involved in collecting for those fundraisers,  
20 would be to ask people who you would know to be Fianna  
21 Fail supporters in the United Kingdom, were they at  
22 these events? Would that not be a fair way of going  
23 about it to be sure?

24 A. I suppose that method could be pursued.

25 545 Q. And did you pursue that method?

26 A. That is not the method I chose to pursue. I chose to  
27 pursue it in asking people who were involved in  
28 organising events in the UK.

29 546 Q. Well, in those circumstances, Mr. Dolan, I have to put  
30 it to you, that you cannot definitively say that

1 Mr. Ottiwell was not involved in fundraising in the  
2 early '80s on behalf of Ray Burke/Fianna Fail, be it in  
3 an informal way or whatever? You can't definitively  
4 say it, can you?

5 A. If it was for the benefit of the Party at national  
6 level - if it was for the benefit of the Party I am  
7 sure the individuals that I questioned would have been  
8 aware of it. If it was for the benefit of the Party at  
9 local level in Dublin North, I am sure the individuals  
10 that I questioned would have been aware of it in those  
11 circumstances.

12 547 Q. But without inquiring from the people who were at  
13 these --

14 .

15 CHAIRMAN: Who else would you inquire from, except the  
16 people who were going to benefit or should benefit.

17 .

18 MR. DUNNE: Well, Chairman the people who would have  
19 been at these --

20 .

21 CHAIRMAN: No, the people who should benefit are the  
22 people who would be in a position to assure the witness  
23 or the inquirer that "Yes, they took place. We got X  
24 pounds. Put it in the funds", and the local party, or  
25 alternatively at National Headquarters, "it came in and  
26 we recorded it." Neither - the evidence here today is  
27 that neither took place.

28 .

29 MR. DUNNE: I accept that, Chairman. Certainly if the  
30 money went to the Party at national level --

1

CHAIRMAN: No, local level also.

3

MR. DUNNE: Local level also. But my point, Chairman, is that to establish whether or not Mr. Ottiwell was, in the eyes of Messrs. Brennan and McGowan, was collecting for Ray Burke/Fianna Fail and these fundraisers, a way to establish definitively the position would be to ask people who would have been known Fianna Fail supporters and who would invariably have attended at least one of these functions, and who were involved.

13

CHAIRMAN: The effective support for a political donation, or a political fund, it had to get to Fianna Fail, the Fianna Fail organisation, broadly speaking, whether it was at a local level or at a national level, for it to be known, if they were going to get any reasonable result for their efforts, isn't that the reality of life? So far, as I know at the moment, there is no evidence to that effect.

22

MR. DUNNE: I accept your point on that, Chairman.

24

CHAIRMAN: I beg your pardon. There is, of course, the evidence by Messrs. Brennan and McGowan that they donated it. I beg your pardon. I musn't leave that out. But there is no corroborative evidence from the Fianna Fail source, which you would expect to find. That is all I am saying.



1

MR. DUNNE: Yes, Sir.

3

CHAIRMAN: Now, I note the point that you are making, that if you trailed around the country you might find somebody that put a pound in the box and didn't get a receipt back, and doesn't remember whether he did or not, and doesn't know whether it ever got to the Head Quarters. I have no doubt that is true.

10

11 548 Q. MR. DUNNE: Simply where I am coming from on this is, Messrs. Brennan and McGowan's position is that as far as they were concerned they were donating to Ray Burke/Fianna Fail. That is where I am going with that.

15

16 Mr. Dolan, if I could just finally ask you; in relation to the financial control, and in relation to fundraisers, or that kind of thing, has the system changed over a period of time, or is it the same policy and system in relation to it? Or does it change with different people at the head of different committees? Or is it the policy, a set policy of the way finances and fundraising should be dealt with?

24 A. Obviously from time to time I am sure it evolves. Specifically in recent years it tends to be more an emphasis, I think, on fundraising events than it might have been, maybe during the period of the 1970s and 1980s, where I understand much fewer fundraising events took place than are currently taking place.

30 549 Q. Is it fair to say that there is now, as with all

1 political parties, not just Fianna Fail, that there is  
2 now more of an emphasis on accountability and  
3 transparency?

4 A. I think there are a lot of legislative requirements  
5 that require, for example, disclosure of donations  
6 above a certain threshold. Obviously from that point  
7 of view procedures have to be in place to ensure that  
8 those legislative requirements are complied with.

9 550 Q. And would it be fair to say that the procedures now in  
10 place would be a lot stricter and tighter than, say,  
11 previously?

12 A. I have no personal knowledge of procedures, obviously,  
13 prior to my time. In terms of - I am quite happy with  
14 the procedures as they are in place at the moment.

15 551 Q. Very good. Thank you very much, Mr. Dolan.

16 .

17 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. WALSH AS  
18 FOLLOWS:

19 .

20 552 Q. MR. WALSH: Mr. Dolan, I just have a couple of  
21 questions for you.

22 .

23 You were saying that before you came to give evidence,  
24 and in preparation for giving evidence you did two  
25 things, as I understand it. Firstly you spoke to the  
26 persons you have named in your statement, isn't that  
27 correct?

28 A. That's true.

29 553 Q. Then secondly, you say you examined the records and you  
30 specified a book called a cash receipts book, isn't

1           that correct?

2       A.   That is true, yes.

3 554   Q.   Is that the only record that was there that you could

4           check?

5       A.   The cash receipts book would certainly take account of

6           any significant donations.

7 555   Q.   I see.  And I think you heard the evidence of

8           Mr. Donovan, and you probably agree with it, when he

9           said that his time in the National Fundraising

10          Committee - it was a very personal thing, and the

11          members of the committee relied on the personal

12          contacts, and that is how the money was raised.  Isn't

13          that the reality of the situation?

14       A.   That is my understanding, yes.

15 556   Q.   Yes.  Now, so that the money raised by these

16          individuals acting in their personal context, could it

17          be the case that in some instances the monies recorded

18          as received by them in the cash receipts book were

19          recorded under their name rather than the name of the

20          donor, if the donor didn't wish to be known?

21       A.   I am not aware of that.  I have no personal knowledge.

22          I was not involved in the recording at that time,

23          obviously.

24 557   Q.   It could have happened?

25       A.   I don't know.

26 558   Q.   Yes, I see.  And from the evidence as it is emerging,

27          there appears to be a number of different types of

28          contributions that can be made.  You can make a

29          contribution to the National Party, obviously, we all

30          know that.  You can make a contribution to a, at a

1 local constituency level, at a race night or something  
2 like that, isn't that correct? That is another type of  
3 contribution that can be made?

4 A. You can make contributions at national level or at  
5 local level.

6 559 Q. Or at local level. Yes. And then, there is obviously  
7 individuals, if they are collecting at election time or  
8 outside election time, contributions can be paid to  
9 individual TDs or county councillors to help them with  
10 their election expenses?

11 A. That is true, yes.

12 560 Q. And now, I think that it is public knowledge that from  
13 time to time all political parties as party  
14 organisations have certain financial stringencies, that  
15 they might have bank indebtedness, or were political  
16 contributions are made in the form of paying money into  
17 the bank to pay off the bank loan?

18 A. As I say, they may have been.

19 561 Q. Yes. Again, if that route was taken it mightn't  
20 necessarily show up in the cash receipts book?

21 A. But, we would - we have a record of all donations made  
22 to the Party between, certainly during the 1980s and  
23 1990s, and all such donations would certainly be clear  
24 from that.

25 562 Q. But that is donations that come into the Party  
26 Headquarters to be processed by Mount Street. I am  
27 talking about the people in the Party who are in the  
28 know and know there is a bank loan there, they can  
29 lodge money by bank giro, or whatever, to the bank loan  
30 to help the indebtedness.

1 .  
2 MR. HANRATTY: Sir, there has been no evidence from any  
3 witness, including and in particular Mr. Walsh's  
4 client, to that effect.

5 .  
6 MR. WALSH: I am --

7 .  
8 MR. HANRATTY: And Mr. Walsh's client's position is  
9 that he did not receive funds from Mr. Ottiwell, that  
10 the funds that he got, the three payments that he got  
11 were donations from Messrs. Brennan and McGowan.

12 .  
13 MR. WALSH: I am entitled to ask this witness are there  
14 categories of donations to the Party that are not  
15 covered by --

16 .  
17 CHAIRMAN: Can we come down to the world of reality.  
18 If somebody pays a sum to a political fund to reduce an  
19 overdraft, the political party will certainly know it  
20 has been done. There is no doubt about that. The bank  
21 will tell them that the overdraft has gone down by X  
22 pounds. Could we get back to reality, please.

23 .  
24 563 Q. MR. WALSH: But, Mr. Dolan, isn't it the fact that lots  
25 of people who make political donations, or companies  
26 that make political donations want it to be known by  
27 the party that they are making political donations, and  
28 to get some credit for it? Isn't that true? Isn't  
29 that life?

30 A. When you say "known by the party", who within the party

1 are you suggesting.

2 564 Q. Whoever they give it to, or the organisation, such as  
3 you in headquarters, you know, that Mr. Tom Murphy of  
4 so-and-so paid ú200 at the last General Election, he  
5 would like it to be known that he is a Fianna Fail  
6 supporter and that it is recorded?

7 A. The records of Fianna Fail donations during the 1980s  
8 and '90s wouldn't have been known, or wouldn't be known  
9 to individual politicians.

10 565 Q. Yes, but the Party would know, the organisation would  
11 know?

12 A. If you mean officials in Party Headquarters, of course  
13 officials in Party Headquarters would be aware, yes.

14 566 Q. Then there would be a category of donors, be they  
15 individuals or companies, corporate donors, that would  
16 not want it to be known that they had actually made a  
17 donation to Fianna Fail. It would just go down as  
18 "anonymous", isn't that right?

19 A. My understanding is that any donations that - sorry,  
20 when you say "go down as anonymous"?

21 567 Q. They would be recorded as being received from an  
22 anonymous source, in other words the donor's identity  
23 would not be known, or would not be recorded.

24 A. I believe, though, in general the donations would, the  
25 identity of the donors would be known by officials.

26 568 Q. Was there not evidence in the previous module, Gogarty  
27 Module, that there were donations you received and you  
28 didn't know who the donors were, and that they were  
29 down as "anonymous"?

30 A. The --

1 .

2 CHAIRMAN: I know of no such evidence in the - would

3 you kindly point it out to me?

4 .

5 MR. WALSH: I can't.

6 .

7 CHAIRMAN: Would you kindly point it out to me and not

8 just take a plunge into the dark.

9 .

10 MR. WALSH: I can't point it out to you at this time,

11 Sir.

12 .

13 CHAIRMAN: Very good. We shouldn't then depart from

14 the question.

15 .

16 569 Q. MR. WALSH: Very good. Then, do you know of payments

17 being recorded as from an anonymous source?

18 A. There have been some.

19 570 Q. Yes, yes. Thank you.

20 .

21 And the ethics - and you, in answer to Mr. Dunne, you

22 said the legislative procedures have now tightened up,

23 that is the Ethics in Public Office Act 1995, isn't it?

24 A. The Act I was more referring was the Electoral Act of

25 1997, and its subsequent amendments.

26 571 Q. Very good. Well, certainly before 1995, wasn't there a

27 system - wasn't it possible for people to make

28 political contributions to parties by paying for bills

29 at functions, and paying for other bills that were

30 incurred by the party?

1 .  
2 MR. BRADY: Sorry, Mr. Chairman, this is entirely  
3 irrelevant.

4 .  
5 CHAIRMAN: This is absolutely irrelevant, absolutely  
6 outside the bounds. This is an inquiry into whether or  
7 not Mr. Ernst Ottiwell was involved in fundraising for  
8 Mr. Burke/Fianna Fail, not some anonymous donor, or  
9 somebody who paid for X, Y and Z.

10 .  
11 The evidence was that funds, these funds were collected  
12 by Messrs. Brennan and McGowan at various functions,  
13 given to Mr. Ottiwell, or basically he was the  
14 administrator of the funds, and that he transmitted  
15 them to Mr. Burke/Fianna Fail. In other words, as a  
16 proper and appropriate political contribution, open and  
17 honest. No question of - that is the basis of the  
18 Brennan and McGowan evidence.

19 .  
20 MR. WALSH: Sir, there is two difficulties. One, Mr.  
21 Ottiwell is no longer with us.

22 .  
23 CHAIRMAN: Yes, but one would expect if Mr. Ottiwell  
24 was carrying out those functions over a period of ten  
25 years, that there would be some known record,  
26 somewhere, in the constituency, or in political  
27 quarters, at headquarters, which acknowledges that this  
28 source of funds was there, even if it was an anonymous  
29 source of funds, because it would be recorded,  
30 presumably, if it was brought to the people to whom it



1 was given to, namely the political party, Fianna Fail.

2 .

3 MR. WALSH: Yes. But, Sir, we know that there have  
4 been anonymous donations. Now, we don't know how much,  
5 and where. That is what this witness says. He says  
6 there is some anonymous donations recorded. I don't  
7 know if that is anything to do with Mr. Ottiwell or  
8 not. I think I am certainly entitled to explore where  
9 with this witness.

10 .

11 CHAIRMAN: Well, you have explored it now. You have  
12 got the answer. Would you move on, please.

13 .

14 MR. WALSH: The next topic I was going to move on to  
15 was the other type of fundraising, which is where bills  
16 were paid by people. That can be a source of political  
17 contribution as well. It might well be that  
18 Mr. Ottiwell was involved in that, I don't know. But  
19 that - I would submit I am entitled to ask this witness  
20 was that sort of fundraising going on, and what sort of  
21 money was involved.

22 .

23 CHAIRMAN: Feel free to ask him. Did he find any such  
24 records.

25 .

26 572 Q. MR. WALSH: Yes. If people, who were Party supporters,  
27 paid bills on behalf of individual politicians, or on  
28 behalf of the Party, is it not correct that that would  
29 not be recorded in the cash receipts book?

30 A. It is not recorded in the cash receipts book, but there

1 are records to that effect.

2 573 Q. Yes. And did you examine those records?

3 A. I have examined those records on, from time to time,

4 and I have - I have discovered no evidence of

5 Mr. Ottiwell being involved in such payments.

6 574 Q. I see. And now, the Leaders' Fund is a fund that is

7 owned and controlled by the leader, or the President of

8 Fianna Fail from time to time, as that changes office.

9 If funds went into that fund, as opposed to Fianna Fail

10 personally, or Fianna Fail as an organisation, I take

11 it it wouldn't be shown in the cash receipts book that

12 you looked at?

13 A. We are talking about, once again, obviously, the period

14 of --

15 575 Q. In the period, early 1980s?

16 A. Early 1980s, obviously those records, I think it is a

17 matter of record, are not available to us.

18 576 Q. But if the money was paid by Mr. Ottiwell into that

19 fund, it wouldn't show up in any records you examined?

20 A. No.

21 577 Q. And then, the people you mention that you made

22 inquiries of; Mr. Donovan has given evidence, Mr.

23 Hanafin and Paul Kavanagh, Sean Fleming has given

24 evidence, and Des Richardson. Is Mr. Kavanagh and

25 Mr. Richardson - are they still involved in

26 fundraising?

27 A. Not, obviously, as officials of the Party.

28 578 Q. Yes. Are they involved in fundraising for any TDs?

29 .

30 MR. HANRATTY: We are now getting into contemporary

1 fundraising, Sir, which has absolutely nothing to do  
2 with this.

3 .

4 CHAIRMAN: This is a period of time, and you know it,  
5 of the 1980s. Could we stay with the relevance,  
6 please.

7 .

8 MR. WALSH: Thank you very much.

9 .

10 CHAIRMAN: Anybody else want to ask any questions?

11 .

12 MR. HANRATTY: Thank you, Mr. Dolan. Thank you,  
13 Mr. Dolan.

14 .

15 MR. HANRATTY: That concludes today's evidence, Sir.

16 .

17 THE WITNESS THEN WITHDREW.

18 .

19 CHAIRMAN: Before I raise this afternoon, I want to say  
20 a few words of an event which is taking place today.

21 .

22 One of our counsel, Pat Hanratty is on his last day of  
23 appearance in public, I use the phrase "in public", in  
24 particular in the Tribunal. And he will not be  
25 appearing again, because in due course of time he is  
26 returning to practice at the Irish Bar and the Law  
27 Library.

28 .

29 I have been a barrister/judge for something like 52  
30 years. I have known Pat Hanratty as my colleague at

1 the Bar for a number of years, I should think of the  
2 order of twenty, or thereabouts. And for ten years as  
3 a judge of the High Court, going on circuit in the  
4 Northern area.  
5 .  
6 I have always found him an exceptionally fine  
7 practitioner.  
8 .  
9 He is a man who I have a very, very high regard for.  
10 And four years ago, when this Tribunal was set up, I  
11 invited him to join the staff. I must say that I  
12 regard my decision as being an excellent decision.  
13 He has been committed, hard-working, and remarkably  
14 successful.  
15 .  
16 He is a barrister of extremely fine quality. And he  
17 has established a reputation in this building for  
18 unprecedented quality of cross-examination.  
19 .  
20 I would like to wish him every good fortune in the  
21 return to his career at the Bar, which I have no doubt  
22 will be enhanced by his performance here. And I would  
23 like to express to him personally my personal  
24 appreciation, and I believe I may do so with a certain  
25 degree of quality, that the public appreciation is also  
26 there for the work and commitment and quality of the  
27 work which he has done for this Tribunal.  
28 .  
29 I am deeply grateful to him. And I wish him every good  
30 fortune and success. Thank you.

1 .

2 MR. BRADY: Mr. Chairman, if I could, perhaps,

3 intervene a say a few words, wearing my hat as the

4 Chairman of the Bar Counsel.

5 .

6 It is somewhat fortuitous that I am here today.

7 .

8 I would like to compliment the work that has been done

9 by my friend and colleague, Pat Hanratty, in this

10 Tribunal over the last number of years. It is

11 important that the public at large remember that this

12 is a duty that has been discharged by this Tribunal in

13 the public interest, at the direction of those elected

14 by the Irish public.

15 .

16 I know that Pat Hanratty and the other members of the

17 team have worked many long hours and dedicated

18 themselves to achieving the task that has been assigned

19 to them.

20 .

21 I think it is fair to say that what the public sees in

22 this room, which we are in today, is merely the tip of

23 the iceberg, when one has regard to the vast amount of

24 work that is done behind-the-scenes of the Tribunal.

25 .

26 It is my duty to associate myself with the remarks that

27 you have made. I agree wholeheartedly with them in

28 terms of the qualities of Pat Hanratty as a barrister.

29 .

30 If I may use the words that one frequently associates

1 with a wedding, you may be losing a member of your  
2 legal team, I am delighted to say the Bar is regaining  
3 a member of our family, Mr. Pat Hanratty.

4 .

5 I have no doubt that he will be as successful as he was  
6 before he came to this Tribunal. I wish him every  
7 success in his practice when he returns to the Bar.

8 Thank you, Chairman.

9 .

10 MR. WALSH: Sir, if I might on my own behalf --

11 .

12 CHAIRMAN: Just a moment, I don't think this is a  
13 matter for everybody. I just wanted to express my  
14 views as Chairman. I have no doubt that you wish to  
15 wish him well, as a member of the Bar, but you have  
16 been dealt with by the Chairman of the Bar Counsel.

17 .

18 MR. WALSH: I just want to indicate on my own behalf,  
19 Mr. Shannon's behalf, and Mr. Fox's behalf, we  
20 personally want to join with your remarks.

21 .

22 CHAIRMAN: I have no doubt you do. I just don't want a  
23 general adulation, although he is very much entitled to  
24 it.

25 .

26 MR. GALLAGHER: May I, on behalf of the legal team and  
27 all the staff who work behind-the-scenes join in the  
28 good wishes that you have expressed, and that Mr. Brady  
29 has expressed.

30 .

1 Pat has been a very - has been central to the workings  
2 of this Tribunal for a long time. We wish him all the  
3 very best. I don't intend to say anything further than  
4 that.

5 .

6 MR. HANRATTY: Well, I certainly don't intend to make a  
7 speech, Sir. But I would like to thank my colleagues,  
8 Mr. Walsh, and Mr. Brady, and Mr. Gallagher for their  
9 kind remarks. And in particular, yourself, for what I  
10 consider to be your over-generous remarks, and  
11 over-flattering, I think.

12 .

13 I would also like, Sir, to say that it has been a great  
14 pleasure to work with you, and with the legal team. It  
15 has been a unique and uplifting experience. It has  
16 been an eye-opening experience, certainly. But  
17 fundamentally it has been a pleasure to work with you  
18 and with the team.

19 .

20 And the last thing I would like to say is to wish  
21 yourself and the newly constituted Tribunal, and the  
22 legal team the very best in the next phase of the  
23 important work of this Tribunal.

24 .

25 Thank you, Sir.

26 .

27 CHAIRMAN: Thank you.

28 .

29 We will adjourn now to Tuesday morning at 10:30.

30 .

1 THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, THE 6TH OF  
2 NOVEMBER, 2001, AT 10:30 A.M...

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