

THE HEARING RESUMED AS FOLLOWS ON THE 5TH NOVEMBER, 1999, AT

10:30 AM:

CHAIRMAN: Good morning everyone.

MR. GALLAGHER: Mr. McGinley please.

GARVAN MCGINLEY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR.

GALLAGHER:

CHAIRMAN: When you are ready, Mr. Gallagher.

1 Q. MR. GALLAGHER: Good morning Mr. McGinley.

A. Morning Mr. Gallagher.

2 Q. I think that you at present reside in Mullingar where you have a business?

A. That's correct.

3 Q. I think that you were a General Secretary of the Progressive Democrats political party from early 1996 until September 1998?

A. That's correct.

4 Q. I think when you, whilst you held that position, you came to know the last witness, Gabriel Grehan, and his wife, Dr. Mary Grehan?

A. Yes.

5 Q. And had you met them and spoken with them on many occasions?

A. Well, I had because, I think you are aware Dr. Mary Grehan was a Progressive Democrats' candidate, and the first occasion that I met her, with some other party officers would have been in 1996 where she had intended, where she expressed an interest that she would like to become closely associated with the party. We met her then, and between that and now I have met herself and her husband, Gay, on several occasions.

6 Q. What position, apart from General Secretary, if any, did you hold

prior to the General Election in 1997?

A. I was Director of Elections for the party.

7 Q. Do you remember the 15th of June of 1997?

A. Yes.

MR. COONEY: I wonder, Mr. Chairman, if Mr. Gallagher would refrain from leading the witness now because we are coming to fairly crucial matters about dates and so on.

CHAIRMAN: Very good.

8 Q. MR. GALLAGHER: Do you remember the period prior to the formation of the government in June of 1997?

A. I do indeed.

9 Q. Do you remember receiving a telephone call on any particular occasion?

A. Yes. At some date in June, and I wouldn't be absolutely clear on the date, I was driving back from the country with the Party Leader, Mary Harney, and Dr. Mary Grehan phoned me in the car and told me that her husband, Gay, would like to talk to the Party Leader in relation to Mr. Ray Burke and in connection with planning in North County Dublin. We were in the car, and it wouldn't be suitable at that stage to put him onto the Party Leader, or to put her onto the Party Leader, so I suggested to her that I would get back to her.

10 Q. Now, can you place this telephone call in time in the context of the General Election, the date of the General Election? Was it before or after the General Election can you remember?

A. I couldn't be absolutely sure. But I would imagine it was a short time before the General Election.

11 Q. I see. And are you certain that Mr. Ray Burke's name was mentioned in the course of that conversation --

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MR. COONEY: Mr. Chairman, I did ask that there be no leading questions.

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CHAIRMAN: It is not a leading --

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MR. COONEY: May I finish please? Some element of the fairness to the parties must be in this, to put questions "are you certain", is the most outrageously leading question.

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CHAIRMAN: Mr. Gallagher, could we try to avoid directly leading questions, but you can place it in relation to a date and a topic, ask what topic, put it on that basis.

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MR. GALLAGHER: The position is that the witness has said that he, that the caller had indicated that Mr. Grehan had information in relation to Mr. Ray Burke.

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CHAIRMAN: No, that's not what the witness said, the witness - that the caller's husband had information in relation to North Dublin, planning in North Dublin, that's my recollection without actually --

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MR. GALLAGHER: I am sorry, I - just one second.

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The witness said as follows: "Yes, at some date in June, I wouldn't be absolutely clear on the date, I was driving back from the country with the Party Leader, Mary Harney, and Dr. Mary Grehan phoned me in the car and told me that her husband, Gay, would like to talk to the Party Leader in relation to Mr. Ray

Burke and in connection with the planning in North County Dublin".

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CHAIRMAN: I beg your pardon, you are correct. My apologies to you. In those circumstances I think the question is permissible.

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MR. COONEY: Sorry, Mr. Chairman, irrespective of what the witness said, I have no difficulty with Mr. McGinley giving his evidence to the best of his recollection, I am sure he will do so. What I do object to, Mr. Chairman, is that on this issue leading questions of the most outrageous sort have been put to him, to follow on "are you certain it was Mr. Burke" when the witness already said, this is both superfluous, unnecessary and leading, Mr. Chairman, and doesn't accord with Mr. Gallagher's statement of two days ago, with all he wants to do is be fair in the presentation of the evidence - however, if that's the way the Tribunal wishes, so-be-it.

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MR. GALLAGHER: Sir, I simply seek to establish whether the witness is certain about what he says. If you feel --

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CHAIRMAN: The witness has confirmed that he had mentioned Mr. Burke. Now let's go on from there.

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12 Q. MR. GALLAGHER: Now, did you have a subsequent telephone conversation with either Mr. Grehan or with Dr. Grehan?
A. Yes. On a subsequent date in June at the Party Leader's house I contacted the Grehan household and talked to Gay Grehan and told him I was coming back to him on the request of his wife, and I put him on to the Party Leader. He indicated to me that he wanted to

talk to her about Mr. Ray Burke at that stage, but that's the only discussion I had at that stage with him, in relation to what he was talking about.

13 Q. Did you have any further conversation with him, when you were in the presence of the Party Leader, Mary Harney?

A. Yes. Later on that month, around the 22nd or 23rd I was present in Mary Harney's house when Gay Grehan contacted me. Again I can't be absolutely sure, but I would imagine on my mobile phone, because I don't think he would have had our Leader's phone number. I then put him in contact with Mary Harney on a land line.

14 Q. Did you have a conversation with him on that occasion?

A. Very basically. Very basic conversation. He just indicated to me that he wanted to inform the Party Leader that Mr. Dermot Ahern was travelling to London, at the behest of the leader of Fianna Fail to interview Mr. Murphy.

15 Q. And can you be any more accurate or certain as to the date on which that call was made?

A. Well, to the very best of my ability, and it is a while back now, I am quite certain it was the eve of Mr. Ahern's journey to London.

16 Q. Mr. Ahern has stated that he travelled to London on the 24th of June of 1997, does it mean that your recollection is that this telephone call took place on the 23rd of June of 1997?

A. That's correct.

MR. COONEY: That too is a leading question, this is a question where Mr. Gallagher is feeding information to the witness and saying; "is that correct". That in my respectful submission is not the proper way for counsel to lead a witness through his

evidence.

MR. GALLAGHER: I am simply trying to elicit dates and information that will assist the Tribunal in its investigation.

Nothing more and nothing less than that.

MR. COONEY: It is --

CHAIRMAN: Mr. Cooney, you have sat here through a similar performance by your colleague yesterday, absolutely. I agree with you that it is desirable that the witness should give his evidence from his own source, but from time to time that, sometimes one corrects or tries to move him along to a particular aspect. Now, could we try and get the thing done. I don't take this as being fed in, I try to establish what is fact.

MR. COONEY: Mr. Chairman, let's bring this discussion to a halt; are you ruling that the form of examination that Mr. Gallagher is conducting is proper in the circumstances? If you are I would not object again.

CHAIRMAN: Mr. Gallagher, could you avoid leading the witness, try and elicit from the witness from his own source in the ordinary way of direct examination. I appreciate a certain amount of this is already in our, to our knowledge as a result of matters that took place yesterday. I appreciate that, try and elicit it from the witness, so that Mr. Cooney is no longer unhappy.

MR. COONEY: It is not a question of me being unhappy, Mr. Chairman, it is a question of observing the rules of evidence, because it is designed to ensure fairness to all parties, it is

not a question of my personal feelings, Mr. Chairman, I assure you.

MR. GALLAGHER: Sir, yesterday Mr. Grehan in his evidence in reply to his counsel, Mr. McCullough, dealt with this aspect of the statement of Mr. McGinley and said in the course of his

evidence at page 121, Question 666, this is Mr. McCullough asking Mr. Grehan the following: "Now he, Mr. McGinley, apparently will say, Mr. Grehan, that subsequently - he says on a subsequent date in June 1997, probably he says on the 22nd or 23rd of June, he telephoned Ms. Harney's home where he was again looking to speak to Ms. Harney. He says that probably occurred on the 22nd or 23rd of June. Firstly, were you in the country on the 22nd or 23rd of June of 1997? I don't think I was actually". And he goes on to suggest that that call was not made. And I think that is, in fairness to this witness, he should have an opportunity of dealing with that.

CHAIRPERSON: Just a moment. My view of the matter is this; the witness should be asked when did he have the conversation with Mr. Grehan and what, to what event or what date does he relate it. Bring it along that way, and we will try and stop the confrontation which is coming about because of this situation. We will try to get the evidence out in that form and it will still come, because he, he has already made the statement and we all know it, that he made a statement, along these terms, but he should confirm from his own mouth what he recalls and what he has in fact recorded in his statement of evidence as such, because it may vary when he actually sits down on oath to give evidence. It may, I don't say it will, but that can happen.

17 Q. MR. GALLAGHER: Mr. McGinley, in light of what the Sole Member has said, can I direct you to paragraph 4 of the outline of evidence which you furnished to the Tribunal --

MR. COONEY: Again, with respect, Mr. Chairman, the witness has to give his evidence from his memory and not from a document.

CHAIRMAN: That is basic. Mr. Garvan, would you tell us what you recall of the events which took place in late June of 1997, and which you were party to?

A. Yes, Sir.

MR. COONEY: That's all I want.

A. Around the 22nd or 23rd of June, I can't be sure as I said earlier, Mr. Grehan phoned me, and I happened to be in the Party Leader's house, and he informed me that he wanted to talk to the Party Leader, and as normal practice I would ask him what did he want to discuss with her, because he told me that he had information that Mr. Dermot Ahern was going to London at the behest of the leader of Fianna Fail to meet Mr. Murphy. I then put him on to the Party Leader.

18 Q. MR. GALLAGHER: Did you have any further meetings or discussions with Mr. Grehan, if so when and can you recall what was said?

A. Well, at a General Council Meeting on the 31st of January of 1998 in the Grand Hotel in Malahide, both Dr. Mary and Gay Grehan were attending the meeting. After that meeting I was circulating among the various delegates, and I sat down with Gay and Mary, and at that stage he informed me that he had left or was leaving, I think he said he had left JMSE. He wasn't happy from, he felt that

more bad news was "coming down the tracks" in relation to the whole planning issue, and he didn't want to be associated with it.

19 Q. In his conversations with you, did Mr. Grehan indicate what his source of knowledge was?

A. No. No, he didn't, Mr. Gallagher, other than the fact that both he and his wife informed me that he was a Director of JMSE and it was in that capacity he was giving information to the Party Leader.

20 Q. You have earlier said in your evidence that on the first occasion

you received a telephone call the name of Ray Burke was mentioned?

A. By Dr. Mary Grehan.

21 Q. What was the reaction at that time?

A. As far as I know, and because so much has appeared in the media since, it is very, very difficult to be absolutely clear, but as far as I remember I didn't associate the name of Mr. Burke with any allegations of planning, good, bad or indifferent in North County Dublin. I believe in the media at the time there was an unnamed politician was being mentioned.

22 Q. I think that after the Tribunal was set up you were asked, as were many others, to furnish information to the Tribunal in relation to any contributions that might have been made to the PDs; is that correct?

A. That's correct, Mr. Gallagher, yeah.

23 Q. And what did you do when you received that material?

A. Well, each party General Secretary was asked to make a search of their records and personnel to find out if monies had been paid or any other transactions taken place. So I made a total search to the best of my ability of all party records and relevant personnel, for example, County Councillors or other elected representatives, and I couldn't come up with any information that

suggested any payments were made to any of the parties mentioned. To be further assured I contacted both Bovale and JMSE and asked them did they have any record of them giving us monies and explaining to them under the terms that I was asking the question.

24 Q. Can you recall who you spoke to on behalf of Bovale?

A. I spoke to Mr. Michael Bailey.

25 Q. And what was Mr. Bailey able to tell you?

A. He - his view was that, no they hadn't given any monies to the Progressive Democrats, that they did buy a national draw ticket or possibly two, but that was the extent of it.

26 Q. Did he have anything else to say that you can recall?

A. Yeah, I recall he asked me could I facilitate him speaking to the Party Leader, because I believe at the time he felt that the powers of the Tribunal were quite severe on him, and he felt unjustly, I in turn went back to the Party Leader and told her what he had said. Under the circumstances she felt it would be improper to have a discussion with him because of the ongoing Tribunal.

27 Q. And did you speak to somebody on behalf of JMSE?

A. Yes. Again I contacted the company's office and I spoke to the Company Secretary, Mr. John Maher. And Mr. Maher then got Mr. Frank Reynolds the Managing Director of the company on the same day to give me a ring back. I had further discussion with him and they did have a record of three payments to the Progressive Democrats. I couldn't confirm either of those because we didn't have a record in the party at the time. But he sent me on the information and I furnished that information with my affidavit to the Tribunal. There was in fact three payments. A sum of £1,000 on or, on the 18th of July, 1999 (SIC), together with £500 on the 7th of September of 1999 (SIC) from the same company, and

the sum of £100 on or after the 17th day of May of 1995, and that was for a national draw ticket.

28 Q. Did you furnish copies of those documents to the Tribunal with your affidavit?

A. I did Mr. Gallagher.

29 Q. And that affidavit was sworn, I think, on the 26th of March of 1998; is that correct?

A. That's correct.

30 Q. Can you identify the documents, the documents please, that you have referred to? (Document handed to witness).

A. Yes, this is the document that I signed and swore the 26th day of March of 1998.

31 Q. Yes. Can you identify the documents attached to it which you enclosed with that?

A. Yes indeed.

32 Q. The first document - what is the first document in time among those documents? I think there was a document PD 1-4?

A. That's correct, yes.

33 Q. Of the 9th of June, 1989. Is that the first in time?

A. It is indeed from the information that I got from JMSE. And that was a letter from the Party Leader of the time, Mr. Des O'Malley, to the Company Secretary of JMSE.

34 Q. Was it addressed to a particular individual?

A. Yes, to Mr. Gerry Downes, who presumably then was Company Secretary.

35 Q. That document bears the reference POL. PD 1-4?

A. That's correct.

36 Q. That was a request for monies prior to the General Election on the 15th of June; is that correct?

A. That's correct.

37 Q. Perhaps would you read that for the record please?

A. The letter?

38 Q. Yes please.

A. "Strictly personal. To Mr. Gerry Downes, Company Secretary, JMSE, Santry, Dublin. June 1989.

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Dear Gerry, I know you are anxious about what 1992 may bring you. The implications are enormous. Properly handled the opportunities are unprecedented, but we must get it right first time.

.

The outcome of the two elections on June 15th will have a profound interest in the Country's progress in the critical years ahead.

For the past two years the PD's policies for tax reform, reducing

Government borrowing and current public spending.... Economic problems.

.

Now that the support for a consensus approach to tackling the nation's... Has been rejected by the calling of this unnecessary General Election we are seeking a mandate to continue our ... Team to the European Parliament, Mary Harney, Robert Molloy, Pat Cox and John Dardis have the right blend of knowhow and experience to fully represent Irish interest in the vital run up to 1992.

.

The success and future of every Irish business depends on having Financial support to help us achieve the crucial result on June 15th.

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Your generous assistance in the past is deeply appreciated and has allowed us to make a powerful impact on Irish politics. This time out the stakes are higher than ever before. Your help is

vital. I look forward to hearing from you. Kindest regards,
your sincerely, Des O'Malley TD, Party Leader". (Quoted).

39 Q. Now, the next document in date order appears to me to be a copy of
a cheque which appears to date the 18th of July of 1989; is that
correct?

A. That's correct.

40 Q. Can you say what, that was a cheque drawn on Allied Irish Banks,
79A Talbot Street, Dublin 1?

A. That's correct.

41 Q. That was cheque number 011700?

A. That's correct. Again that photocopy cheque was faxed to me by
Mr. Frank Reynolds as a cheque paid to the Progressive Democrats
on the 18th of July, 1989.

42 Q. The payee isn't stated; is that correct?

A. That's correct.

43 Q. And there is a compliment slip from the Progressive Democrats.
Can you explain what that relates to?

A. Well again, it is a long time before I arrived in the party, so it
was the compliment slip that was used at the time, and the name
Kevin Leonard was, he is since deceased, but he was active with
the Progressive Democrats in North County Dublin. Mr. Frank
Reynolds had that.

44 Q. Did that entire document come to you by way of a fax?

A. Absolutely, absolutely.

45 Q. I see. Did you receive two faxes on that day, the 26th of the
3rd, 1998, I am looking at document POL, PD 1-8? Do you have
that? It seems to be a copy of the letter you have just read?

A. I do have that letter, yes.

46 Q. There is a handwritten note at the top right-hand corner of that,
do you know whose writing that is?

A. I don't.

47 Q. What does it say when you read it?

A. "£1,000 per J Gogarty", underlined.

48 Q. That isn't, am I correct in thinking, on the document POL, PD 1-4?

A. That's correct.

49 Q. Now, the next document in datal order appears, datal order appears to be a handwritten document with the number 011700 on the top right-hand corner. It is dated the 18th of the 7th, '89?

A. That's correct, I have that.

50 Q. Yes. That's POL PD 1-9?

A. That's correct.

51 Q. And that is the document, would you read it please?

A. Serial number 011700, dated 18th/7th/'89. The initials "JMG" or "JMQ", it is not absolutely clear. "Miscellaneous expenses. T O'Keefe" --

52 Q. There is a word in between that?

A. Yeah, "as per", I imagine. And it is £1,000 and "Mr. G" in brackets.

53 Q. I think the next - sorry, was that a document that was also faxed to you by Mr. Reynolds on that date?

A. That's correct, Mr. Gallagher.

54 Q. The next document in datal order is a letter of the 7th of September of 1989?

A. Yes, I have that.

55 Q. That bears the reference POL PD 1-3?

A. Yes.

56 Q. That's a letter to Mr. Frank Reynolds?

A. That's correct.

57 Q. Would you care to read that please?

A. Progressive Democrats heading, dated 7th of September 1989.

"Mr. Frank Reynolds, Renville, Pelletstown, Drumree, County Meath. Personal".

"Dear Mr. Reynolds, further to my letter to Mr. Gerry Downes I am writing to thank you most sincerely for your kind donation in the amount of £500 for our election fund. Your generosity and support is greatly appreciated ... Best wishes. Your sincerely Des O'Malley TD, Leader, Progressive Democrats". (Quoted).

58 Q. I think the next document, although it is undated, we will treat it as the next document for the record, it appears - it is headed "Grant Draw Subscription Form"?

A. Yes, I have that.

59 Q. And that appears to relate to a draw organised by the Progressive Democrats fundraising members club draw?

A. That's correct.

60 Q. I think the name is Frank Reynolds JMSE, Shannowen Road, Santry Dublin, Dublin 7 or Dublin 9?

A. It seems to be.

61 Q. That document for reference, it is POL PD 1-5. Do you know when that document came into existence, have you any idea?

A. I would assume, I would associate it with the cheque for £100 made out on the 17th of the 5th of 1995.

62 Q. I see. Was that document that I have just, that's on the screen, the grant draw document also faxed to you by Mr. Reynolds?

A. That's correct.

63 Q. I see. And the next document is POL PD 1-6. It is a copy of a cheque which appears to have been drawn on the 17th of the 5th 1995?

A. Yes, I have that.

64 Q. And that's a cheque paid to Progressive Democrats, £100, JMSE

Limited, and it appears to have two signatures, one of which appears to be John Maher, I am not sure what the other one is?

A. That's correct.

65 Q. That cheque number is 503018?

A. Yes.

66 Q. Did you receive any other documentation from Mr. Reynolds?

A. No, everything I received I furnished to the Tribunal.

67 Q. I see. Thank you Mr. McGinley.

A. Thank you Mr. Gallagher.

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

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68 Q. MR. HERBERT: Mr. McGinley, you were General Secretary of the party you say from September - until September 1988, '98; is that so?

A. That's correct.

69 Q. And when did you become General Secretary of the party?

A. In March of 1996.

70 Q. I see. And as General Secretary of the party, to whom would you be responsible?

A. I would be responsible to the Party Leader, and the National Executive of the party.

71 Q. And the Party Leader, I think we know at the time was the present Tanaiste, Ms. Harney; is that right?

A. That's correct.

72 Q. Who was the National Executive at the time?

A. The members of the National Executive.

73 Q. Can we ask just for the moment who was the Chairman of the party at the time?

A. Mr. Declan McDonald.

74 Q. Was Chairman of the party at the time?

A. That's right.

75 Q. Who were the National Executive?

A. They would be made up by a number of delegates from around the country.

76 Q. And was Mr. Michael McDowell a member of the National Executive at the time?

A. He was indeed.

77 Q. And apart from being a member of the National Executive did he hold any other position in the party at the time?

A. He was a TD from Dublin South East.

78 Q. Well, I mean did he have any other rank in the party apart from being a TD and member of the National Executive?

A. He was a party trustee.

79 Q. I see. So he was a very senior member of the party?

A. That's correct.

80 Q. Yes. I mean, was he a Chairman of any of the party committees?

A. He, I am sure, possibly would be, but I just can't recall offhand.

81 Q. Yes. I mean, did he at any stage become Chairman of the Progressive Democrats Party?

A. He was Chairman of the Progressive Democrats prior to my joining the party.

82 Q. So can you tell the Tribunal when he ceased to be, hold such office?

A. Again that was before I came to the Progressive Democrats.

83 Q. Well, how long?

A. It was - he became party Chairman after the previous General Election.

84 Q. Was he party Chairman, for instance, during 1995?

A. Well, I wasn't with the Progressive Democrats then and I wouldn't --

85 Q. I see. Can I take it, Sir, and I don't mean to pry in anyway, were you an employee of the party as distinct from being a party member?

A. Well I was both.

86 Q. Yes. As a party member could you not, can you not recall then when Mr. McDowell was the Chairman of your party?

A. Well, I wasn't a party member at that stage, sorry.

87 Q. Sorry. Very well. So, would I be right then in thinking that in addition to drawing any important information to the attention of the Party Leader, Ms. Harney, that you would also draw them to the attention of members of the National Executive?

A. Yes, but if someone has confidential information for the Party

Leader, that's entirely for her.

88 Q. And would I be right in thinking that its unlikely that the Party Leader would hold such important information from a body like the National Executive of her party?

A. Well that, Sir, is a question you would have to ask the Party Leader.

89 Q. Yes. I beg your pardon?

A. I think you should ask the Party Leader that.

90 Q. I see. Am I right in thinking that for instance, both Mr.

McDowell and Ms. Harney were front bench members of the party?

A. That's correct.

91 Q. Sorry, I should say for the record, of the parliamentary party?

A. That's correct.

92 Q. Yes. And that at the time Mr. McDowell had, was either the official or unofficial government spokesman for the party - was he, had he any particular ministry to mark at the time?

A. What time?

93 Q. In 1996/1997, particularly 1997?

A. Mr. McDowell was a very senior member of the party and he had an interest in many areas, including the financial.

94 Q. Um. Yes, as such I think he would have a very close working relationship with Ms. Harney, the Party Leader?

A. He would indeed.

95 Q. Yes. Were you aware, Mr. McGinley, of a lengthy correspondence that took place between a Mr. James Martin Gogarty and Mr. McDowell throughout 1996 and into 1997?

A. Yes, I was aware of it. However, I wasn't aware of the substance of it.

96 Q. And how did you become aware of it?

A. I was informed at the time by the Party Leader and Mr. McDowell.

97 Q. At what time, Sir? The correspondence started in January of 1996 and proceeded throughout 1996 into 1997, so at what --

A. More at the very end of it. Because of the call that I got from the Grehans.

98 Q. What call did you get from Grehans?

A. The initial phone call where Dr. Mary Grehan rang.

99 Q. Yes. And at that stage how did you become aware of this correspondence?

A. I wasn't aware of the correspondence, I was aware there was contact between the two people.

100 Q. That is between Mr. McDowell and Mr. Gogarty?

A. Correct.

101 Q. I mean, who made you aware of that?

A. The Party Leader.

102 Q. In the car at the time of --

A. No, no, no.

103 Q. When?

A. After that. I can't be absolutely sure. It was after that, it was in connection - because this situation came up, information she gained from Gay Grehan.

104 Q. Um. Yes. But, I mean, if she told you this she must have had, become aware of this correspondence through Mr. McDowell; is that right?

A. I think you really would have to ask the Party Leader that.

105 Q. And she must have been aware of that before Dr. Grehan made the phone call sometime prior to the General Election?

A. Again I think you would have to ask her that.

106 Q. Well, well I mean you said you were told about it?

A. Yeah. What she knew I don't know. I didn't know what the substance of any of that discussion was.

107 Q. No. I am not so much concerned about the substance, I want to know did she tell you when she became aware of this correspondence between --

A. No.

108 Q. Yes. I mean, so her reaction was, when, in the motor car on the date you can't remember, that when Dr. Grehan telephoned that the, Ms. Harney was in a position to tell you that she was aware of this correspondence at that time in the car on that date?

A. She didn't tell me that in the car on that date.

109 Q. When did she tell you?

A. She made me aware of it after, I just don't know the date.

110 Q. Was it the same date? How long after?

A. No, I would say a while after. To be quite honest I don't know, and no matter how many times you ask I will have to tell you the same, to be honest.

111 Q. Can I ask you this; was it before the election?

A. I can't be sure.

112 Q. When was the government formed?

A. The government was formed towards the end of June.

113 Q. Was it the 26th of June?

A. Yes, but I cannot, no matter what way you put it, Sir, I don't remember the date and that's quite the honest answer.

114 Q. Why do you remember being aware of this particular correspondence?

A. Because it had relevance to the whole JMSE.

115 Q. How did you know it had relevance?

A. The Party Leader told me.

116 Q. Did she tell you what relevance?

A. No, just that Mr. Gogarty was in correspondence with Michael McDowell.

117 Q. Yes. So your position is that you were made aware of this correspondence?

A. Yes.

118 Q. Were you made aware --

A. Not even correspondence, contact.

119 Q. -- were you made aware this was important contact?

A. No.

120 Q. Were you made aware of the contents of it?

A. No.

121 Q. And you don't remember when you were made aware of that?

A. No.

122 Q. Can I ask you, Mr. McGinley, am I right in thinking that your recollection of this whole period is somewhat vague and uncertain at this stage?

A. Well, my recollection of the period and various calls that were made to me, I think is quite clear. I think it is understandable that I don't remember an absolute date.

123 Q. I mean you gave this statement I think on the 13th of July of 1999; is that right?

A. Yes, I believe so, 12th of July, '99.

124 Q. Yes. And I mean, can you tell the Chairman at this stage whether you know the correspondence and communications that passed between Deputy Tommy Broughan and Mr. James Martin Gogarty were passed on to either Mr. McDowell or the Party Leader?

A. No.

125 Q. Yes. Were you aware that as far back as the 8th of September of 1995 Mr. Gogarty was complaining to Mr., to Deputy Broughan about "fraud, bribery and corruption by powerful people that I mentioned to you, Mr. Redmond, Mr. Burke and others"?

A. I wasn't, no.

126 Q. Were you - and were you aware that Mr. Gogarty passed on to Mr. McDowell in January of 1996 various communications between him and Mr. Broughan, Donnelly Neary Donnelly and the Minister for Justice and others?

A. I wasn't. No.

127 Q. And this letter?

A. Which letter?

128 Q. Of Tuesday the 8th of September of 1995?

A. No, I don't know of any letter of Tuesday the --

CHAIRMAN: First of all would you be kind enough to tell me what

the letter of that date is?

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MR. HERBERT: It is a handwritten letter, Mr. Chairman, very difficult to read on the copy which I have been given. It is addressed to Deputy Broughan from Renville, Shielmartin Road, Sutton, County Dublin.

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CHAIRPERSON: Just hold on a minute. Can you give me the reference and we will pick it up?

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MR. COONEY: Can I intervene? This letter was attached to the Statement of Evidence circulated by the Tribunal for Mr. Tommy Broughan, so the Tribunal has this, Mr. Chairman.

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CHAIRMAN: I am sure they have.

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MR. COONEY: And it is very important.

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CHAIRMAN: I just want to see it, I want it in front of me, that's all. It is the easiest way of getting it.

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MR. HERBERT: Tab 3, Sir, is all I can tell you.

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CHAIRMAN: Its all right, we have got it. Would you give us the date again please?

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MR. COONEY: Tuesday, the 5th of September of 1995.

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MR. HERBERT: It is actually the 8th I think.

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MR. COONEY: It is either the 5th or 8th of September, 1995. It is a handwritten letter.

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CHAIRMAN: Can you just give us a moment to pick it up?

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MR. COONEY: It occurs, Mr. Chairman, in two Tribunal documents. It was attached to the statement from Deputy Tommy Broughan circulated by the Tribunal, and it also seems that the Tribunal prepared a book of documentation with the title "James Gogarty, Letters to Dail Members".

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CHAIRPERSON: Could you detach your copy and run it through the photocopying machine, of course that's the quickest way. Sorry, Ms. Howard has actually got it.

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MR. COONEY: This is only one of many letters which we are referring to as an example, Mr. Chairman --

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CHAIRMAN: Yes, all right. All I want is to have it in front of me.

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MR. COONEY: -- in which Mr. Redmond and Mr. Burke's name were mentioned in 1996, 1995.

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CHAIRMAN: Its coming up to me now.

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MR. HERBERT: Will I proceed, Mr. Chairman?

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MR. GALLAGHER: I wonder for the record if I could ask Mr. Herbert if there is any number, any file number on the document? It is in fact one of the documents exhibited, circulated with the statement of Deputy Tommy Broughan.

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MR. COONEY: It is page 23 in that book.

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MR. HERBERT: I have a book here which I haven't used I can give you. It is page 23, Chairman, is all it says in the book. It was sent to us on the 7th of January.

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CHAIRMAN: I have no doubt about it, all I am looking for is a copy. Here we have it. Friday, the 5th of September, 1995, Renville, Shielmartin Road, "Dear Mr. - thank you for the letter of the post script of the 16th". That's the same letter, all right.

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MR. HERBERT: I think looking at my copy which is much clearer it is actually the 8th of September.

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CHAIRMAN: That would quite possibly be true.

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129 Q. MR. HERBERT: Yes. You see, from the same documents which were given to us, Mr. McGinley, by the Tribunal, on the 24th of January of 1996 there is a letter from Mr. Gogarty, Jim and Ann Gogarty to - "Dear Mr. McDowell, thank you for your letter of the 17th inst.. I am sorry if my earlier letter did not indicate the nature of our problem. I enclose copy of the file I gave to Mr. Broughan, updated to include correspondence between Messrs. Donnelly Neary Donnelly, the Minister for Justice" - and then he goes on to deal with a long list of complaints.

.
So, it appears that on the 24th of January of 1996 that Mr. McDowell at least was in possession of nearly all of these previous documents, would you agree?

A. I can't confirm that. I have never seen that document you are

referring to.

130 Q. Yes. And that these documents mention both Mr. Redmond and Mr. Burke?

A. I can't comment. I have never seen it.

MR. HERBERT: Yes. Thank you very much indeed.

A. Thank you.

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MR. SHEEDY: No questions.

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CHAIRPERSON: Anybody else?

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MR. HAYDEN: I appear on behalf of Mr. Grehan, and there would be a number of questions in relation to this witness I would wish to put to him.

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CHAIRMAN: Mr. Hayden, and you are appearing for Dr. Grehan, not Dr. Grehan, Mr. Grehan with Denis McCullough?

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

131 Q. MR. HAYDEN: Yes. Mr. McGinley, just a couple of questions in relation to this matter. Obviously this is quite a period of time ago, and could you maybe help us; when were you first asked to recollect the sequence of events that formed the basis of your statement?

A. Just a moment now. I met with Mr. Gallagher in Dublin Castle on the 22nd of June of 1999.

132 Q. 1999. So was that the first time you even had an inclination that you might have to recollect events of some two years earlier?

A. It could have been a week or two prior to that, the first date, the first formal date, that's the date of my interview with Mr. Gallagher.

133 Q. June 1999?

A. Yeah.

134 Q. Prior to that, June 1997 when these events are supposed to have occurred, these phone calls etc. and the information you say you received, and June 1999, did you have any occasion to put to paper, to recollect, to compose in your mind what had happened over that period of June 1997 in relation to these issues?

A. In relation to the phone calls?

135 Q. Yes?

A. No.

136 Q. So when it came to June 1999 may I take it that your statement, that your outline of evidence, you stand over that?

A. I do indeed.

137 Q. Absolutely?

A. Yes.

138 Q. And I take it when you set out events therein, they are accurate,
if they refer to a date or they are as accurate as you can at this

remove?

A. They are as accurate as I can recall.

139 Q. Yes. So therefore when one sees a particular event identified
therein, it is for the best of your recollection?

A. That's correct.

140 Q. Yes. I think you were Director of Elections for approximately
two years?

A. General Secretary.

141 Q. General Secretary for two years. During that period of time I
think you would have had two by-elections and one General Election
as Director of Elections?

A. No, I was General Secretary.

142 Q. Yes. Sorry. During that period you would have had two
by-elections?

A. Yes.

143 Q. Yes. As General Secretary I presume you would have been Director
of Elections?

A. No, not necessarily. For instance in the Dublin West By-election
Michael McDowell was.

144 Q. These would have been events, as General Secretary you would have
been --

A. If what you mean is would I be involved, I certainly would.

145 Q. I presume you would be heavily involved. So therefore when one
comes at least to an election, if we are trying to recollect
events and trying to recollect dates, I presume the very minimum
is you remember the General Election date?

A. Yes.

146 Q. So then in your statement when you say it is the 15th of June of

1997, at least we can be assured that on the basis of your memory and the strength of your memory that's the correct date?

A. The difficulty --

147 Q. Would that be so?

A. -- the difficulty with the dates running up to the General Election and after that, there was an awful lot happening.

148 Q. Without doubt. I suspect in the overall scheme of things this was hardly uppermost, particularly as Director of Elections this would be hardly uppermost in your mind, it would be part and parcel. I presume everything would be kicked off, the one sure date is probably the election itself, the General Election itself?

A. The whole election process would have been kicked off nearly a year before that.

149 Q. Yes, no but in relation to this June 1997 event, the one, probably one fixed date at least, and in fairness to you, you have said at this remove it is hard to remember exact dates in relation to when a phone call was made or a conversation had. So you are doing it by way of reference to something else, probably, or a sequence of events. I presume the one sure date is the election. It is in your statement, as I understand it you are standing over your statement. It is the 15th of June according to your statement?

A. From my recall.

150 Q. Was that the date that you gave to the Tribunal when you were giving them your --

A. Yes, it was in my statement, obviously it is the date I gave.

151 Q. Would you be surprised to know the actual election was the 6th of June, 1997?

A. I wouldn't be because when I was talking to you I had a feeling that --

152 Q. You felt something was "coming down the track", did you? Yeah.

Well it has arrived. So, we are already off, we are already wrong at the first and probably only real date that anybody could put their hands up for; isn't that correct?

A. You could say that.

153 Q. I think you, yourself, sent out a note on the 5th of June, 1997, wishing everybody the best and hopefully translate the votes into

a great victory on Saturday or Sunday night. I take it you don't take issue with me, it is your signature anyway?

A. No, I don't.

154 Q. We are moving off on that event. As I understand the situation, you can't recollect the exact date in which the first phone call was made to you --

A. That's correct.

155 Q. -- by Dr. Grehan. I take it, and in fairness to you, I think in your statement you say that you never spoke to Mr. Gabriel Grehan on that first phone call?

A. That's correct.

156 Q. So you had no idea of what he was going to say or anything of that nature?

A. Other than the fact that his wife informed me --

157 Q. You had no idea of what he was going to say. If you stick with the question, don't worry about what someone else was telling you?

A. What she informed me --

158 Q. Was that telephone to your recollection before or after the 6th of June?

A. I believe it was before.

159 Q. Yes. Why are you so sure of that?

A. Because generally, it was all before the election where the Party Leader and I would be travelling up and down the country.

160 Q. So it was only a matter of because you were in transit that you make it before the 6th of June?

A. No, I actually - before, it was before the 6th of June, as I said in my statement I can't be absolutely sure.

161 Q. So I just wonder why, if it is before the 6th of June nobody knew what the outcome was obviously of the election until after it, so why would anybody, why would Dr. Grehan or why would this be a topic of conversation if it was before the election?

A. Well, you have to ask Dr. Grehan that, she contacted me.

162 Q. Yes. You see I have to put it to you that it was after the election?

A. That's your prerogative.

163 Q. But you can't be absolutely sure. So it is probably not a matter that's going to turn hugely in any event, Mr. McGinley. But in relation to that conversation it really was quite short, I presume, and you said you would get back?

A. That's correct, yes.

164 Q. And you say you were informed that it was in relation to, you were given two things, Mr. Burke's name and the planning?

A. That's correct.

165 Q. I have to put it to you that it wouldn't have been a matter that - perhaps it may be better in this way - at the stage of this conversation would you have been on good terms with Dr. Grehan?

A. Absolutely.

166 Q. Again I have to put it to you that after the election which is when the phone call, according to Mr. Gabriel Grehan, when it took place, this took place after the election at which stage your relationship as between Dr. Grehan and yourself was not the best?

A. I wouldn't have thought that.

MR. GALLAGHER: I don't think that evidence was given. I have no recollection of that evidence being given by Mr. Grehan.

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CHAIRMAN: It wasn't. There is no doubt about it.
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167 Q. MR. HAYDEN: Was there any difficulty with some of the candidates over the manner in which the election, the tactics leading up to the election was run?

A. I think you need to be more specific. I certainly don't remember having any difficulty with Dr. Grehan.

168 Q. Did you ever receive a letter from Dr. Grehan complaining about

the disastrous turn out in Dublin?
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CHAIRMAN: I think we are wandering very far from the Terms of Reference of this Tribunal. And while I wait, always await counsel to bring themselves on site, as it were, I'm afraid you are staying off site very substantially at the moment.
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169 Q. MR. HAYDEN: May it please you, Chairman. You see, why I am saying that, why I was putting that to you, Mr. McGinley, is that it was unlikely that Dr. Grehan would have done any more than ask to speak to Mary Harney in that phone call because of the relationship between you and her at the time?

A. Well first of all, I don't think there was any difficulty in the relationship between us at the time. Secondly, I wouldn't be in the practice of putting anyone onto the Party Leader without knowing what they wanted to speak to her about, in order that I can brief her beforehand.

170 Q. Yes.

A. That's normal practice.

171 Q. The telephone conversation certainly took place. How long after that telephone conversation did you then seek to make contact with Gabriel Grehan?

A. As you see in my statement I said on a subsequent date. I would imagine it was a week or so after that.

172 Q. Yes.

A. I can't be sure. I contacted him and he spoke to the Party Leader.

173 Q. Yes. But you have no way of fixing it in time?

A. No.

174 Q. Did you, yourself, on that occasion, I think you rang Mr. Grehan, I think, and that's his recollection of it also, and I take it you put him straight on to Mary Harney?

A. We had a brief discussion on pleasantries.

175 Q. Yes. But you didn't get into the topic?

A. No, other than the fact that he said what he wanted to talk to her about --

176 Q. That's what I am putting to you, Mr. McGinley. When you rang the second time, are you saying there was some conversation?

A. I just, basically that he wanted to talk to her in relation to Ray Burke.

177 Q. You see, I have to put it to you that Mr. Grehan's evidence was to the effect that he never told you?

A. I am quite confident that he did.

178 Q. You see, on your evidence it seems that your first conversation was with Dr. Mary Grehan where you say she indicated the purposes?

A. Um.

179 Q. So you rang Mr. Grehan on the second occasion, presumably in reply to that first conversation?

A. Yeah.

180 Q. So why did you ask him --

A. I didn't ask him, he told me.

181 Q. Mr. Grehan's recollection of it, and his evidence was to the

effect that he didn't tell you?

A. That may very well be the case, I am telling you what mine is.

182 Q. In any event, in relation to the conversation which you say occurred, Mr. Grehan's evidence is to the effect that at no stage did he ever indicate that this was anything other than rumour and hearsay?

A. Well, to be quite honest if someone wanted to ring up the Party Leader at that busy time to discuss rumour and hearsay I wouldn't facilitate the call.

183 Q. I have to say to you he indicated - he never indicated to you or, that this was a matter of fact, that he knew as a matter of fact on these events?

A. He indicated to me he was a Director of JMSE, as did Dr. Mary Grehan, a position of responsibility within the company and he had important information in relation to Ray Burke and planning matters in North County Dublin.

184 Q. If I can just indicate in relation to your statement the phraseology you used is quite clear, this is the end of paragraph 6. "He did not tell me this information was based on rumour and hearsay. So far as I was concerned" - so may we take it then, because of the fact that - did you make an assumption on the basis of so far as you were concerned?

A. As I said, as far as I was concerned my judgement was --

185 Q. Yes, but this was not based on any representation to that effect by Mr. McGinley?

A. By Mr. Grehan.

186 Q. Sorry, by Mr. Grehan?

A. No, other than the fact that he told me of his position in the company, and the reason he told me that in my view, was to --

187 Q. Then may I take it that the difference between you, if there be a difference, is down to really one of your assumptions because of

his position, that this was a, an actual factual result as distinct from Mr. Grehan's position which is, as I say at all times he indicated it was no more than rumour and hearsay, would that be the difference?

A. What Mr. Grehan thought is a matter for him. What I thought is that it was a matter of fact.

188 Q. I think it is sauce for the goose and sauce for the gander. If you say what Mr. Grehan thought is a matter for him, presumably it is not unreasonable to say what you thought and now think here today is a matter for you?

A. I can only deal with my own view.

189 Q. Yes. And then moving on from that, in relation to the conversation, you say that you received the phone call coming

toward the end of June, am I correct in that?

A. That's right.

190 Q. And where were you when that phone call reportedly took place?

A. I was in Mary Harney's house.

191 Q. And are you aware how you received the phone call?

A. I would imagine it came on my mobile phone because I don't think Gay Grehan would have the Party Leader's phone number.

192 Q. But you are not sure, are you?

A. I would be fairly confident.

193 Q. Are you sure - I mean, I am conscious that this is in one sense a daft question because who knows what happened last year never mind two years ago, as you say yourself you were in the middle of forming a government at that stage, I presume, or in the lead-up to it and all the difficulties involved in that. So when you say you imagine, is that extrapolating back because you feel Mr. Grehan mightn't have had Mary Harney's phone number and therefore that's how you fix it, it was probably the phone, as distinct from

any clear recollection of how you received it at all?

A. He phoned me.

194 Q. Yes?

A. And I then put him onto the --

195 Q. Yes. You put him on there and then?

A. I had a brief conversation with him.

196 Q. Yes. Mr. Grehan says you didn't, he didn't phone you at that time, at the end of June?

A. Well, my clear recollection, absolutely clear recollection is he did.

197 Q. But you can't remember how he phoned you, whether it was mobile phone or land line?

A. No, or nor can I say if he rang me from Dundalk or Cork.

198 Q. Yes. Well it wasn't, in any event I think the next, I think your recollection of that is sometime around the 24th of June or 23rd

of June?

A. 22nd, 23rd, I would place it as the night before Mr. Dermot Ahern went to London.

199 Q. And when was it the case that you worked out that that was the way you were able to refer to --

A. Because Gabriel Grehan told me that he was going to London the following morning.

200 Q. Yes, who told you in June of this year, who told you what date Mr. Ahern was going to London or did you remember that? When you were preparing the statement were you aware that Mr. Ahern had gone to London?

A. That was a matter of fact at that stage.

201 Q. I didn't ask you that, Mr. McGinley?

A. I was aware of the date. I didn't know if it was the 22nd or 23rd.

202 Q. How did you know that?

A. Um, well I believe from one, it was in the newspapers at that stage I would imagine.

203 Q. Is that where you picked up --

A. I just knew the date, I don't know.

204 Q. Yes. And was that because it was forming part of your negotiations in relation to the forming of the government, that this was something that was a matter of concern to you, that Mr. Ahern was going to London?

A. No, what happens within Fianna Fail is a matter for Fianna Fail.

205 Q. I am not talking about Fianna Fail, I am talking about your mind, we have enough trouble as it is without going off into other areas, as the Chairman has rightly pointed out. What I am trying to find out is - as I understand your identifying of this particular phone call, it is by way of reference to events of a third party. I am trying to find out, if you follow my point, it is a matter of building blocks, I am trying to find out what's the

foundation, if you get to the particular date --

A. You are really asking how do I know that Dermot Ahern went to London on the 22nd or 23rd?

206 Q. Yes.

A. That is the date I had in my mind for it, whether it is right or wrong is irrelevant.

207 Q. I am asking, are you asking the Chairman to, to accept or take the point that some two years later you remember out of the blue that Mr. Dermot Ahern happened to be going to London on a particular date, and by reason of that you were able to identify that you received a phone call, you don't know how, whether it was a land line or mobile line, you don't know how you received the phone call the day after or two days after?

A. Sir, I am really saying the relevant date was, Gay Grehan rang me

the eve of Mr. Dermot Ahern going to London.

208 Q. Yes, but you don't have - did somebody give you the date, Mr. McGinley?

A. Well, I didn't pick it out of the air, so I assume --

209 Q. If we got the short answer that would be yes. Who gave you the date?

A. I can't remember that.

210 Q. Right. You don't remember when you found out the date?

A. No, I just, I knew that it was around that time.

211 Q. Was it before June of 1999?

A. I can't tell you that, I don't know.

212 Q. In any event, I think thereafter did you have a meeting with any of the Grehans?

A. Yeah, on the 31st of January of 1998.

213 Q. Did you have any meeting with any of the Grehans before that date?

A. I am sure I did, I can't recall, but it would be more likely that I did than I didn't.

214 Q. Yes, you were still the General Secretary?

A. That's right.

215 Q. So, and obviously - what date was the government formed do you recollect?

A. I believe it was around the 26th of June.

216 Q. Yes.

A. It was towards the end of the month.

217 Q. Towards the end of the month. And at that stage did you have any occasion to meet any of the candidates or any of the individuals coming to the end of June of 1998, 1997 sorry?

A. I would have been meeting candidates on a regular basis. My job was to be touring the country, so I would be around and about all the time.

218 Q. Was this information that you say was imparted to you, as distinct

from Ms. Harney, a matter of great significance to you?

A. Which information now?

219 Q. This information about the conversation you say you had with Mr.

Grehan in relation to the purpose, the information in relation to JMSE?

A. The only information that Gay Grehan gave me was the fact that Dermot Ahern was going to London. He had a full discussion with --

220 Q. With Ms. Harney, and that's as between them as to what was said or not which is fair enough?

A. Correct.

221 Q. In the context, was it a matter of great significance to you or a matter that you would have thought you would regard as being significant?

A. No I wasn't, I just took the message and --

222 Q. Passed it on?

A. Passed it on.

223 Q. Did you have a meeting with, in the - with any of the Grehans in the Davenport Hotel on the 26th of June?

A. There was, there was a meeting of the General Council after the General Election, and I certainly would have been talking to the Grehans the same as everyone else I am sure.

224 Q. You didn't mention to them at that, did you, the supposed phone call of three or four days earlier?

A. I don't think so, I don't know to be honest.

225 Q. I see. I would have thought if it was something that had occurred some three or four days earlier you might have mentioned it, you don't?

A. No.

226 Q. The next event of significance in the context of your statement

then seems to be the Malahide meeting and that's in January of 1998; isn't that correct?

A. Yes.

227 Q. And at that stage I think it was a General Council Meeting in Malahide, and you were still the General Secretary?

A. That's right.

228 Q. And can you tell us to your recollect, how this conversation started?

A. I believe it was after the meeting in the bar, the Grehans were there, and in the course of going around meeting the various delegates I spoke to the Grehans and we had a general conversation and Gay Grehan told me he was leaving or had left JMSE.

229 Q. Yes. Did that just come out of the blue?

A. It came out in conversation.

230 Q. Yes. You see, I have to put it to you, well you say he had left it, and is that as much as he said to you?

A. I said why and didn't pursue it any further, and he said he feels there is more information in relation to planning "coming down the tracks" and he didn't want to be associated with that or with the company.

231 Q. And when is the first time you were asked to recollect that event?

A. I imagine when I was making my statement to the Tribunal.

232 Q. Yes.

A. It was part and parcel.

233 Q. That was June of this year?

A. Yeah.

234 Q. And that was something, did you think it was strange that Mr. Grehan said this?

A. No, because if that's what he felt, that's what he felt.

235 Q. You see I have to put it to you that Mr. Grehan's evidence to the Tribunal was that he never said anything of the sort to you. He

said he left and that was that?

A. Sorry, I am quite clear that he did say that.

236 Q. And you say that this conversation took place after --

A. Yes.

237 Q. -- after the meeting had taken place?

A. Yeah.

238 Q. Was Ms. Harney still there or was she --

A. No.

239 Q. She had left. And you say it happened in the bar?

A. That's right.

240 Q. And I have to put to you that Mr. Grehan's evidence to the

Tribunal and his own recollection of it was to the effect that he had indicated that he had left JMSE to pursue his own business, I think. Are you aware that he had his own business that was going on before he joined JMSE in 1988 and after it?

A. I hadn't met Gabriel Grehan before I met him in 1996, I wouldn't have known.

241 Q. You wouldn't have known what the situation was. And I have to

put it to you that he never indicated anything of the sort about any disharmony in relation to his departure from JMSE or that he was leaving for the reasons as you suggest, which was that there was planning issues coming down the tracks?

A. Well, my clear understanding is that he did.

242 Q. So what, in the context of this situation, your statement, Mr.

McGinley, can you help us as to why you thought that that was of any relevance in relation to this Tribunal in circumstances whereby you were dealing really with June of 1997. Who brought up this topic about Mr. McGinley, Mr. Grehan's departure?

A. It was part of my knowledge of the whole thing. It is part and parcel of --

243 Q. Who brought up the question, did you?

A. I would have volunteered the information. I don't think someone would bring up the question.

244 Q. Yes. You weren't asked if you were ever told?

A. No.

245 Q. You just, by the way in 1988 he left because of - that's what he said to you?

A. That's what he said.

246 Q. Just finally, Mr. McGinley, I have to put it to you that Mr. Grehan's evidence was to the effect, and his position is that he never indicated to you that Mr. Dermot Ahern was sent at the behest of Fianna Fail to London, not to you, he never indicated that to you?

A. My understanding is that he did.

247 Q. Is that what he said or just your understanding and recollection at this stage?

A. As far as I am concerned that is exactly what he said.

MR. HAYDEN: Thank you.

A. Thank you.

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CHAIRPERSON: Mr. Gallagher?

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MR. GALLAGHER: No. Thank you very much, Mr. McGinley.

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MS. DILLON: Sir, the next witness is Mr. Gerrard Brady. He is not available until 2 o'clock. He is a witness that is probably relevant from Mr. Harris's point of view also, who is not here at the moment.

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CHAIRMAN: We indicated, didn't we, it would not be before 2 o'clock, he is --

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MS. DILLON: He is quite a short witness and he is going away
next week and won't be available next week.

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MR. COONEY: I don't think we have any interest in what Mr. Brady
is going to say, but I think perhaps Mr. Allen has, I am not sure,
but I don't think we have, so if you don't mind --

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CHAIRMAN: We will say good morning to each other for the
moment.

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MS. DILLON: Do you intend to sit at 2 or 2.15, Sir?

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CHAIRMAN: If we said 2 o'clock. We will sit at 2.

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MR. HAYDEN: Chairman, one point. I think there was a request
made for, by the Tribunal for Mr. Grehan's contract in relation to
his departure from JMSE, I wonder if, I can furnish a copy to the
Tribunal and to the -

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CHAIRMAN: Thank you very much for furnishing a copy, the terms
of confidentiality as indicated.

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THE HEARING THEN ADJOURNED UNTIL 2 PM.

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THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

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MS. DILLON: The first matter, Sir, is the witness list for
Monday. Over lunch we discovered from the office of the Chief

State Solicitor that the Garda witnesses are not available for Monday. The balance of the witness list for Monday are two very short witnesses. And I would suggest it would be a waste of public funds if you were to sit for a full hearing day on Monday to deal with those two witnesses.

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So I suggest, Sir, that you would stand down the witness list for Monday in its entirety and we will contact the various people.

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CHAIRMAN: Yes.

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MS. DILLON: The second matter is the evidence of Mr. Brady. It appears that there was a breakdown of communications between Mr. Harris and the Tribunal office. And Mr. Harris' client who is affected by this evidence.

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Mr. Dominic Hussey appears for Mr. Brady instructed by Finbar Cathal and Co. solicitors, Sir. We are presently in communication with Mr. Harris and it may be that we will be in a position to proceed this afternoon with the evidence of Mr. Brady. If I could ask you to rise for five minutes it may be possible to resolve the difficulty. I think Mr. Hussey wishes to seek limited representation on behalf of his client.

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MR. HUSSEY: Yes indeed.

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CHAIRMAN: I grant you limited representation. There is no

problem about that. We will have to investigate the other situation.

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MR. HUSSEY: Of course.

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CHAIRMAN: Should we say a quarter or 20 past, quarter past two?

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MS. DILLON: I understand we are in a position to proceed. We understand from Mr. Harris, now Sir, by telephone that he did not intend to ask any questions of this witness. And that he intends to reserve his position and if anything arises he may come back to the Tribunal in relation to the matter. And he has asked that we might consider recalling Mr. Brady when he has reviewed the transcript, if that is satisfactory to you, but it did appear that Mr. Harris did not intend to ask any questions of this witness at that time.

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CHAIRMAN: Well, if Mr. Harris is a person that is affected, he is advising his client that he doesn't require to be present unless the transcript discloses something of particular --

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MS. DILLON: That is so Sir, he wishes to reserve his position, in effect, in relation to the transcript.

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CHAIRMAN: You are satisfied that Mr. Harris has been fully acquainted of the nature, or he has been circulated with Mr. Brady's -- --

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MS. DILLON: He has been circulated with the statement of Mr. Brady. In view of the breakdown between in communications between the Tribunal and Mr. Harris I would be happy that we would proceed to deal with Mr. Brady today and that Mr. Harris be allowed to

reserve his position to cross-examine should something arise on the transcript that Mr. Harris wishes to question this witness

about.

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We would at least be in a position to deal with the witness today and Mr. Allen is also here and he has an interest in this witness. I don't know whether he has any difficulty with us adopting that procedure?

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MR. ALLEN: No Sir, I have no difficulty at all. I am here, obviously, because my client is mentioned in the statement.

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CHAIRMAN: As far as I understand it, everybody concerned has been appropriately circulated with the potential testimony of this witness, or probable testimony of this witness. If having read that advanced notice of his, of the nature of evidence he is going to give, a responsible solicitor takes the decision that he doesn't require at this moment to be present unless something not flagged in the advanced notice, I think I am entitled to proceed in the circumstances.

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MR. ALLEN: I have no difficulty with that at all, Sir.

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MS. DILLON: Yes, sir I don't know if any of the other parties represented have any difficulty with us adopting that procedure? It is simply to make it clear this is due to the breakdown of communications. This is something that, the Tribunal's facility was being offered to Mr. Harris in the exceptional circumstances that pertain. We hope for it not to be a regular occurrence, Sir.

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CHAIRMAN: Anybody else got any problems with proceeding?

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MR. MOORE: No Sir. We have no objection whatsoever.

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MR. HUSSEY: I have no difficulty.

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CHAIRMAN: Very good. We will carry on.

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MS. DILLON: Mr. Gerard Brady please.

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GERARD BRADY, HAVING BEEN SWORN, WAS EXAMINED BY MISS DILLON AS
FOLLOWS:

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248 Q. MS. DILLON: Mr. Brady if you would like to take a seat. Mr.

Brady. I should say Sir, that this is a witness that no documents
have been circulated in relation to this witness and no documents
will be relied upon. Certain parts of the transcripts of previous
witnesses may be put to this witness, either by myself or other
parties, but there are no documents to be circulated in relation
to this witness.

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CHAIRMAN: Very good.

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249 Q. MS. DILLON: Mr. Brady, I understand that you live at Deerpark
Lawn, Castleknock?

A. That is correct.

250 Q. I understand also that you are the owner of Brady's garage on the
Navan Road?

A. That's correct.

251 Q. For how long have been in the garage business?

A. 27 years.

252 Q. Can I ask you, do you know Mr. George Redmond?

A. Yes, I do.

253 Q. Can you tell me when you first met Mr. George Redmond?

A. In the mid to late 80's, sometime.

254 Q. Are you - is your house situated close to Mr. Redmond?

A. Yes. We are neighbours, within very short distance of one
another.

255 Q. And when you say the mid to late 80's, can you narrow it down any
better than that for us?

A. I am afraid not.

256 Q. When did you move into Deerpark Lawn in Castleknock?

A. In excess of 20 years ago.

257 Q. So you are saying before 1988?

A. Well, 26 - we are 26 years in Dublin, it is, that is the third house that we lived in. So I know it is more than 20 years because the mortgage is paid on it. It could be 22.

258 Q. So do you think that you moved into Deerpark Lawn, Castleknock, sometime around 1985/1986?

A. Much earlier.

259 Q. Much earlier than that, 1975?

A. In excess of 20 years.

260 Q. It was never any good at maths, I am sorry. Somewhere around the late 1970's you moved into Castleknock?

A. I would say in the late seventies.

261 Q. And was Mr. Redmond already living there?

A. To the best of my knowledge he was, yes.

262 Q. And is this a small cul-de-sac of houses?

A. A small cul de sac, about a dozen house, yes.

263 Q. In the ordinary course of meeting your neighbours you could have met Mr. Redmond fairly early on in the late seventies or the early 80's when you moved into Deerpark first?

A. I wouldn't have known him because it is a private area.

264 Q. Yes?

A. And I would not have known him. I would have known who he was. I would have seen him drive in and out or going for a walk. But I wouldn't have been on personal terms with the man.

265 Q. But did you subsequently come on to personal terms with Mr. Redmond?

A. Correct.

266 Q. Right. Can you tell me when you first got to know Mr. Redmond other than as a neighbour to see?

A. My first meeting was with him in the County Council offices when I

went in to inquire about a proposal to open a new filling station,
and a local councillor brought me in to see what the chances of
getting planning permission there might be.

267 Q. Can you fix at all, for us, the date approximately of that
meeting?

A. Well, within the years, '86, '87.

268 Q. Yes. So from that time you were, you would have been aware when
you went in to see him in the County Council offices that he was a
neighbour of yours and you were going in to see him in his
capacity as Assistant City and Council Manager, because you were
proposing to put a new entrance on your garage?

A. Yes.

269 Q. And following that meeting did you become more friendly with Mr.
Redmond?

A. Well, it is fair to say I got to know him, he use to call then at
the garage on a fairly regular basis.

270 Q. And did he in fact buy cars from you over the years?

A. He bought one car.

271 Q. From you over the years?

A. Yes.

272 Q. So that you had a bit of business dealings with Mr. Redmond. You
do or did?

A. Yes.

273 Q. Did you or do you know Mr. Michael Bailey?

A. Yes. I would have known Michael Bailey for a longer period than
that.

274 Q. For a longer period than you have known Mr. Redmond?

A. Yes.

275 Q. For how long have you known Mr. Michael Bailey?

A. I would say probably 20 years or thereabouts.

276 Q. And can you explain to me very briefly if you would, the circumstances under which you met Mr. Michael Bailey?

A. I probably met him as a customer first.

277 Q. And has he been a customer of yours for a long time?

A. Yes, he has.

278 Q. And is he still a customer of yours?

A. Very much so.

279 Q. And did you --.

A. And all his family and connections.

280 Q. Yes; and would you regard yourself as being friendly with Mr. Michael Bailey?

A. Yes.

281 Q. And would you have regarded yourself at the time as being friendly with Mr. George Redmond?

A. Well, friendly but not in as personal a way as I would be with Mr. Michael Bailey.

282 Q. Now, do you remember being asked, having a conversation with Mr. Michael Bailey about Mr. George Redmond?

A. The only, what is the word you used.

283 Q. Conversation?

A. The conversation I would have had with him in regard to that would have been what he would have asked me, if I could arrange a meeting with Mr. Redmond for him because he knew we were neighbours.

284 Q. Yes. Can I just stop you there and ask you where did that conversation take place, can you remember?

A. I have no idea.

285 Q. Yes. Can you remember approximately when that conversation took place?

A. Well, I said in my statement that was approximately 1990, but I am

afraid I have no way of being anymore specific than that. We play golf together on a regular basis, he could have asked me on the golf course. He could have asked me on any social occasion that we might have met, I wouldn't have any idea.

286 Q. Yes. So, when you say in your statement that I,"in or around 1990 I was approached by Mr. Michael Bailey who had been a customer of mine for a number of years to see if I would set up a meeting with Mr. George Redmond who had been a customer of mine and a neighbour", you are fixing the date of that conversation with Mr. Bailey at in or around 1990?

A. I said 1990, yes. I discussed this with my solicitor. I said I can't be sure it was 1990, it could be a couple of years either side of that, I cannot be anymore specific.

287 Q. Well if we can, I am not in anyway trying to tie you down Mr. Brady, would it be fair to say that that conversation with Mr. Bailey could have taken place any time between 1987 and 1993 if it was a couple of years either side of 1990?

A. I think you would be widening it far too much at that.

288 Q. What is the range then that you would say within which that conversation probably took place?

A. I well I would say '88. '88 to 90.

289 Q. '88 to 90?

A. Yes.

290 Q. And can you tell me then, Mr. Brady, what you did following that conversation?

A. I would have met Mr. Redmond and I said that there was a friend of mine asked me if I could arrange a meeting between the two of them.

291 Q. Yes?

A. And when I next met Mr. Redmond I mentioned the fact to him and he said that he had no problem with that. The meeting subsequently

took place in my home.

292 Q. Right. And can you tell me who was present when the meeting took place? Can you tell me first of all were you alone in the house when this meeting took place or were any members of your family present?

A. No, I was alone.

293 Q. Can you recollect who arrived first?

A. No.

294 Q. Did you bring both persons in to meet each other together, can you recollect anything about it?

A. I remember the two of them coming. I brought them into the front room.

295 Q. Did you effect an introduction between them?

A. Well I probably did, but I would have very little memory of exactly the format. I showed them into the front room. I left them there. I closed the door. I went out into the kitchen and read the paper.

296 Q. Yes. So, you were not present and don't know what was discussed in the course of that meeting, but if I can go back to what happened when the two gentlemen arrived at your house.

A. Yes.

297 Q. Do you have any recollection of introducing them of saying "this is Mr. Redmond" "this is Mr. Bailey" or "this is Michael Bailey" "this is George Redmond"?

A. I have no idea.

298 Q. Do you think that that is likely or unlikely?

A. I have no idea.

299 Q. What was your impression at that time. Do you think that these people knew each other?

A. Again, I don't know if they did or not.

300 Q. Well, what was your impression, Mr. Brady, if you could help the Tribunal with what you --.

A. I would love to help the Tribunal, I cannot recall. I remember the two of them arriving. It would be normal courtesy like, to say, this is - to say to one "this is Mr. Redmond this is Mr. Bailey".

301 Q. Was it your impression that they knew each other or that they

didn't know each other?

A. I didn't dwell on that. I had no view on it then or now.

302 Q. In the normal course of events, Mr. Brady, if you were asked to set up a meeting by one person with another does that usually arise in circumstances where both of them already know each other?

A. I would, I only want to tell the facts as I remember them and I cannot help you anymore than that.

303 Q. Yes, but I am trying to establish Mr. Brady, you were approached by Mr. Bailey?

A. Yes.

304 Q. And you were asked to set up a meeting with Mr. Redmond?

A. Yes.

305 Q. It was your impression from that request that Mr. Bailey had not already met Mr. Redmond?

A. Well, I am sure I would be aware that both of them would have known one another anyway.

306 Q. Did they know of each other or did they know each other?

A. I couldn't answer that question.

307 Q. In the circumstances where Mr. Bailey approached you and asked you to set up a meeting in your house with Mr. Redmond, was it your impression or opinion at that time that Mr. Bailey did not himself know Mr. George Redmond?

A. I have no answer to that. I can not recall the circumstances where he asked me or to set up this meeting or if he would have

given any indication that he knew him, I don't know the answer to that question.

308 Q. He didn't give you any indication that he knew him?

A. No.

309 Q. No. Did Mr. Redmond, when you went to Mr. Redmond with this request on behalf of Mr. Bailey, did Mr. Redmond indicate to you that he knew Mr. Bailey?

A. Well, he would have indicated that he knew of his name anyway, but

whether he would have known him on a personal level or not.

310 Q. You don't know?

A. I don't know.

311 Q. But your recollection is that Mr. Redmond indicated that he knew of him?

A. Yes. Yes.

312 Q. Yes. Do you think that from your understanding of this meeting that took place in your house, was it your view that these men were meeting for the first time?

A. I wasn't at the meeting. I have no idea what they talked about.

313 Q. I am not asking, I accept fully, Mr. Brady, you weren't at the meeting and you don't know what they spoke about. I am not really concerned with what they spoke about?

A. Yes.

314 Q. I am concerned with your view, in your view was this the first time the two men had met?

A. I would have no view on that.

315 Q. In the normal course of events, do you think a meeting like this, that you would have been asked to set up a meeting like this if they already knew each other?

A. I don't know, I didn't think anything about it. I got a request from one man to meet another man.

316 Q. Yes?

A. And I didn't go into any reasons why they were having a meeting.

317 Q. But normally Mr. Brady, if you get a request from A to introduce A to B, it is usually in circumstances where A does not already, of himself, know B; isn't that right?

MR. ALLEN: Chairman, with respect, My Friend has used the word "if you get a request to introduce". This witness has said time and again in answer to the same question phrased in a variety of different ways that he doesn't know whether it was an introduction

or whether it was simply a meeting that he arranged. We know there was a meeting. This point is being pursued, with respect Sir, and has been answered on a number of occasions. We are now at the stage where we are putting words in the mouth of the witnesses which will appear in the transcript.

318 Q. MS. DILLON: Very good. I will accept the criticism, Sir, I won't proceed with that particular question if. I could ask you this particular question; Mr. Brady, when Mr. Michael Bailey approached you to set up the meeting, can you remember what he asked?

A. No. The request would be to arrange a meeting. If I could arrange a meeting.

319 Q. With --?

A. With Mr. Redmond. Whom he knew to be a neighbour of mine. That is all I know about that.

320 Q. And that is all Mr. Bailey asked you?

A. As I recall it.

321 Q. To set up a meeting in your house?

A. To see if I could set up a meeting in my house.

322 Q. With Mr. George Redmond?

A. With Mr. Redmond, yes.

323 Q. And insofar as the date is concerned, Mr. Brady, you can't put it any better than it was around 1990, but that you might be out by a couple of years either side?

A. Correct. Correct.

324 Q. On either side. Would you answer any questions, Mr. Brady, that Mr. Allen has. Sorry, I suppose Sir, for Mr. Hussey the normal course is that counsel on behalf of the witness goes last, before Counsel for the Tribunal.

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CHAIRMAN: Mr. Allen?

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THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. ALLEN:

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325 Q. MR. ALLEN: Just very briefly, Chairman, if I may, Mr. Brady, just a few points. Is it a correct summary of the evidence which you have attempted to give here today, that you arranged a meeting with Mr. Redmond in your house at the request of Mr. Michael Bailey?

A. That would be my opinion, yes.

326 Q. Is it equally correct to say that beyond that you can say nothing in relation to the arrangement, save to the effect?

A. No, no.

327 Q. That Michael Bailey asked you, you have told us, knowing that you were a neighbour of George Redmond?

A. Yes.

328 Q. He asked you would you set up a meeting; is that correct?

A. Yes, yes.

329 Q. I just want to get these things clear. The next matter that I want to raise with you is this, you have been invited to go

backwards from, you go into reverse from 1990 and we appear to have reached possibly 1988. You then have been invited to go into forward gear and we appear to arrive at 1993. .

Your statement says "in or around 1990". May I take it that the fact, that the fair, and correct me if I am wrong, that a fair statement of the position is that presumably when you wrote this statement you thought in or around 1990 was correct; is that the case?

A. Yes.

330 Q. And that and again I don't want to misrepresent you, I want to be clear about this, are you now saying that you can't be certain one way or the other?

A. I would estimate it to the best of my ability to be about ten years ago.

331 Q. Which would give us 1990?

A. About that.

332 Q. Which is what is in your statement?

A. Yes.

333 Q. Now, the other thing that I just want to establish, hopefully by asking one question, because it is a matter which has been canvassed under a whole variety of guises, insofar as the meeting was concerned, you knew nothing about what took place at the meeting?

A. Absolutely nothing.

334 Q. Except that we know that it took place if your house; is that correct?

A. Correct.

335 Q. You weren't in the room when the meeting took place?

A. No.

336 Q. You took no part in any discussions?

A. Absolutely nothing.

337 Q. As to the intriguing question as to how you, what you said to these gentlemen in your home, I understand you to be saying that you really don't know what you said to them; is that correct? I mean presumably would you have said "hello" to both of them because you knew them individually; isn't that correct?

A. That would be normal courtesy, yes.

338 Q. I would assume, correct me if I am wrong, that the normal courtesies would have been extended. George Redmond, Mr. Redmond I should say, rings the doorbell, you say "hello George, come in", something to that effect?

A. Yes.

339 Q. You wouldn't have said "what are you doing here"? You were excepting him to arrive?

A. Yes. No.

340 Q. Mr. Bailey arrived, you told us that knew Mr. Bailey well, you knew him for in excess of a period for 20 years?

A. Yes.

341 Q. And you played golf with him regularly?

A. Yes.

342 Q. And he and his family have been customers of your long and well established garage, for a very substantial period of time; isn't that correct?

A. That is all correct, yes.

343 Q. Presumably when Mr. Bailey arrived it would have been "hello Mick"?

A. Absolutely.

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CHAIRMAN: Do you really have to - isn't the only evidence this witness has given is that he set it up with the two men, he says

"come in gentlemen" and he walked out. Isn't that the effect of this man's evidence?

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MR. ALLEN: Thank you Sir. Now that you have established that on the transcript I can sit down.

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It didn't appear that that was something which was meeting with approval. I mean, in the sense that that matter, I beg your pardon Sir, this is not a criticism of My Friend, it appeared to me that that matter was being canvassed with a degree of vigor.

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CHAIRMAN: Miss Dillon was perfectly entitled to inquire whether or not he knew whether they knew each other and in fact did they know the basis of the thing that the meeting was set up. He says "no" to both of those. There is no reason to doubt the good man.

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MR. ALLEN: Absolutely Sir. I want to be clear by the way, I am not in anyway criticising My Friend, she was perfectly entitled to ask the questions she did. You have established the matter beyond per adventure, I am grateful to you.

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MR. MOORE: I clearly have an interest whether Mr. Bailey and Mr. Redmond knew each other before.

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CHAIRMAN: If you can established it, carry on.

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MR. MOORE: Give me a chance, Sir.

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THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. O'MOORE:

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344 Q. Mr. Brady, I appear for Mr. Gogarty, I want to ask you very few questions in relation to this matter. First of all, is any reference point by which you date the meeting as around 1990, is there anything else that was happening around that time that leads you to believe that it was in that year?

A. No.

345 Q. There is nothing that you can remember happening either in your personal life or in public life around that time that guides you towards the year 1990?

A. No.

346 Q. It could equally well be 1989; isn't that so?

A. Absolutely.

347 Q. It could, in truth, equally well be 1988?

A. It could stretch back to '88, the best guess I can make, I don't want to guess, it looks to me to be ten years ago.

348 Q. I understand Mr. Brady, you don't have any record of any nature whatsoever, that you can look at no in order to prompt you about

the date?

A. No. No.

349 Q. Your memories about the time is vague, to put it mildly?

A. Absolutely.

350 Q. Can I ask you, I understand that Mr. Bailey was and is a valued client of your business, there is nothing wrong with that, were you ever involved in any other business transactions or dealings with Mr. Bailey that might help to you remember the date?

A. No.

351 Q. None whatsoever?

A. No. We bought a house off him for kids, but I have no idea what year that was either.

352 Q. Yes. Now, did I understand your evidence correctly to be and I am

asking you this question in respect of whether Mr. Bailey and Mr. Redmond knew each other prior to this meeting; did I understand your evidence correctly to be this; that you were approached by Mr. Bailey to set up the meeting with Mr. Redmond, because Mr. Bailey knew that Mr. Redmond was a neighbour of yours?

A. Correct.

353 Q. Mr. Bailey clearly knew where you lived; isn't that so?

A. Yes.

354 Q. Had he been to your house prior to this meeting?

A. Many times. Our families are friends. He has attended parties in our house and we have attended parties in his.

355 Q. And he had done so by 1989 or 1990 or indeed 1988?

A. Yes.

356 Q. He was well familiar with your house and the setup and the area it was in?

A. Yes.

357 Q. He was aware, on your evidence, that Mr. Redmond lived in the vicinity?

A. Yes.

358 Q. He was aware that, I think he was a close neighbour of yours; isn't that so?

A. It is a small cul-de-sac, yes.

359 Q. I think Mr. Redmond, in his evidence, refers to going across the road; is that what where Mr. Redmond lives, just across the road to you?

A. Not directly, but only a few yards.

360 Q. You are only a few yards away from each other. Can I suggest this to you it might help you address the questions that Miss Dillon was putting to you, if it is the case that Mr. Bailey knew where you lived, and if it is the case that he knew that Mr. Redmond lived across the road from you, if he knew Mr. Redmond prior to

this meeting surely he could have just called over to Mr.

Redmond's house himself; isn't that right?

A. I couldn't answer that question.

361 Q. Well now as a matter of common sense; isn't that so?

A. It didn't concern me so I have no view on that matter.

362 Q. You are the man that lives in the cul-de-sac, Mr. Brady, can you advance a single reason why, if Mr. Bailey knew where you lived and knew that Mr. Redmond lived a few yards away, he needs you to effect this meeting to be set up as opposed to simply calling over to Mr. Redmond's house, if he knew him already?

A. I don't know what his thinking in that matter was.

363 Q. Well you can't suggest a single reason to the Tribunal as I understand it, why he wouldn't have simply gone directly to the man when he knew where he lived?

A. I don't know why that was.

364 Q. Now, can I ask you about the fact that the meeting was held in your house?

A. Yes.

365 Q. Obviously you were a close friend of Mr. Bailey at the time; isn't that right?

A. Yes. Yes.

366 Q. And again I am putting it to you that if Mr. Redmond and Mr. Bailey knew each other at all prior to then, that it could simply have been held in Mr. Redmond's house; isn't that right?

A. I suppose it is fair to say.

367 Q. I don't want Mr. Allen to interrupt unless he has a genuine interjection to make. I see nothing --

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MR. ALLEN: It is quite impertinent of Mr. O'Moore to anticipate what I have to say. That is matter for you, Sir. It certainly

can't be dictated to by --

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CHAIRMAN: Let's get down to the point that you want to say.

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MR. ALLEN: Yes, it wasn't I that started this line. What I want to say is this Sir; I believe that it was Mr. O'Moore who conducted a forensic cross-examination of Mr. Bailey. There is nothing offensive, there is nothing offensive about that.

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CHAIRMAN: Please, please.

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MR. ALLEN: Mr. Bailey, in his direct evidence, indicated that he had met with Mr. Redmond and that he had met him at Mr. Brady's home. He was not questioned about this by My Learned Friend. He should have been if My Friend thought that there was something in which ought to be pursued.

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We are now in the quite silly situation where this witness is being asked by Mr. O'Moore to consider himself what might or might not have been on Mr. Bailey's mind and indeed as to what the state or condition of Mr. Bailey's mind was. That is not in my respectful submission Sir, a proper question to be put to this

witness. It mirrors the line of questioning which has, the line of questioning which has already been pursued, but I have to say, much more fairly, by counsel to the Tribunal, and if this matter was of any interest to this, to Mr. O'Moore it should have been put to Mr. Bailey and not to this witness. We surely haven't reached the stage where we have witnesses who are being called for the purposes of attempting to assess for your benefit, Sir, although I think "benefit" is hardly the appropriate word, what somebody else might have been thinking.

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MR. MOORE: Well, there is three answers to that.

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MS. DILLON: If I could just deal briefly with one aspect which arises from what Mr. Allen says, I don't wish to cut across Mr. O'Moore in anyway. In fairness to all the parties Sir, I should remind you that Mr. Gerard Brady's statement was circulated following a request from the Tribunal for a statement on the 19th of October of 1999, at which stage Mr. Michael Bailey had finished giving his evidence. So that any criticism that it is levelled about this matter not having been put to Mr. Bailey is one that should be levelled at my door rather than being levelled at anybody else's door, in fairness to anybody who has been circulated with the evidence.

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MR. MOORE: I will deal with it very briefly.

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CHAIRMAN: My view of the matter, Mr. O'Moore, is that the question, so far, is perfectly legitimate. Now, what answer -- actually, I don't remember what answer you got. So far as I know it didn't bring the matter further.

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MR. MOORE: Perhaps Miss Dillon might --

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CHAIRMAN: Carry on now, within limits in the inquiry what you think, what you think should occur in his house.

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MR. MOORE: Perhaps Miss Dillon might just read the question? I thought it had been answered by the witness, I might be wrong.

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MS. DILLON: The question was, and Mr. O'Moore says "and again I am putting it to you that if Mr. Redmond and Mr. Bailey knew each other at all prior to then, then it could be simply that he would, it would have been held in Mr. Redmond's house; isn't that right?" And "I suppose it is fair to say". It stops then. The question "I don't want Mr. Allen to interrupt unless he has a genuine --

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368 Q. MR. MOORE: I understood the witness had answered the question I put to him, if they knew each other it was more likely that the meeting would have been in Mr. Redmond's house and the witness said that would be fair to say. The questioning is now over on that point.

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I want to ask you just one final question, Mr. Brady, and it is this; the meeting that took place in your house you say had nothing to do with any business involving you; isn't that correct?

A. Correct.

369 Q. It was a facility granted to Mr. Bailey and I suppose to some extent to Mr. Redmond to allow them to meet in your house together?

A. Yes.

370 Q. Is that a facility that you offered either to Mr. Bailey or Mr. Redmond on any other occasion, that they would meet in your house or they would meet others in your house over business that didn't concern you?

A. No.

371 Q. Thanks Mr. Brady.

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MR. HUSSEY: I have no questions of the witness.

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MS. DILLON: I suppose I should just have asked Mr. Brady had he

discussed with any other party involved in this Tribunal coming here to give his evidence today?

A. No.

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MS. DILLON: I have no further questions.

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CHAIRMAN: First of all, Mr. Brady, thank you for coming and thank you - all I can say is thank you and say you are free to go.

A. Thank you.

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THE WITNESS THEN WITHDREW.

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CHAIRMAN: Thank you very much. As there is no further business, we will adjourn to Tuesday morning at 10:30. Very good.

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MR. ALLEN: Could I just clarify, in relation to Tuesday? We are looking at Monday's schedule.

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MS. DILLON: No Sir, Monday's list has been dropped in it's entirety and will be rescheduled at a future date. We will be resuming with the cross-examination, by Mr. Callanan, of Mr. George Redmond, to be followed by Mr. Bartholomew O'Shea after Mr. Harris has cross-examined, has dealt with Mr. Redmond.

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The next witness after that will be Mr. Bartholomew O'Shea and

then followed with the order of witnesses which has been circulated. Monday's witnesses have been stood down in their entirety.

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MR. ALLEN: I just want to be clear about this, Chairman, in terms of, does that involve; is Mr. Bailey, is Mr. Tom Bailey the next witness?

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MS. DILLON: The witnesses that will follow, Sir, after Mr. Bartholomew O'Shea and I can't be held to the order of these witnesses, will be Mr. Tom Bailey, Ms. Caroline Bailey and Mr. Joseph O'Toole; but I am not sure in which order they will be called after Mr. O'Shea and I should indicate that Mr. O'Shea is anticipated to probably take up to a day.

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MR. ALLEN: Very good, Chairman, all I would ask - I am grateful to My Friend for the clarification - all I would ask, presumably at some stage a decision will be taken as to the order of the calling of the witnesses?

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CHAIRMAN: I take it that that state of affairs will be achieved by Tuesday morning.

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MR. ALLEN: Yes. Well, it is simply as you appreciate --

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CHAIRMAN: Yes.

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MR. ALLEN: One witness is a housewife and a mother of young children and that --

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CHAIRMAN: We will try and get the matter sorted out.

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MR. ALLEN: I am obliged to you, Sir.

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MR. CALLANAN: I think I had actually finished my

cross-examination of Mr. Redmond, so it is Mr. Harris.

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CHAIRMAN: There is not that much left in Mr. Redmond.

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MS. DILLON: And Mr. Hanratty for the Tribunal with Mr. Redmond.

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CHAIRMAN: Then you have Mr. Bat O'Shea who you think will take the remainder of the day, at least?

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MS. DILLON: Certainly the remainder of Tuesday and possibly into Wednesday lunchtime and Mr. Harris did indicate that he expected to be, I think, about half a day with Mr. Redmond.

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CHAIRMAN: Very good. That is the best we can do for you.

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MR. ALLEN: I am obliged, Chairman.

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CHAIRMAN: Thank you.

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THE HEARING THEN ADJOURNED TO TUESDAY THE 9TH NOVEMBER, 1999.