

# Bit thick? Don't worry. There's a job for you in Davy

## Gene Kerrigan



**A**re you an idiot? If so, a wonderful future awaits you as a senior executive in the financial services business. If you're truly thick, you'll need a truck to take home the vast amounts of money you'll make.

To prove this theory, we'll examine the happy-ever-after conclusion of the J&E Davy stockbroker controversy.

Here, in just six sentences, is the Davy controversy.

In 2014, a rich guy had a financial bond he wanted to sell. He engaged Davy stockbrokers to sell it for him. Without telling him what they were doing, a 16-person group of Davy executives bought the bond from him — for themselves.

So, in this transaction, the Lucky 16 are the sellers (for the rich guy) and they're also the buyers (for themselves).

(I'm sure that in negotiating with themselves they were able to agree a fair price.)

This all became public after the rich guy heard what happened and sued. Last March — seven years later — the Central Bank fined Davy €4.1m for regulatory "failures".

Somewhat, the stockbrokers, faced with a relatively simple task, found themselves in questionable circumstances.

However, that was then and this is

now. The fine was paid by the company — not the brokers involved — and the Lucky 16 moved on, looking forward to new challenges (they left the company when their achievement was made public).

Davy is now being sold to Bank of Ireland — new owners in place, and we all move on, Davy's reputation restored.

Everyone's a winner. J&E Davy is satisfied, Bank of Ireland is satisfied, the Central Bank is satisfied and a number of rich shareholders are about to get even richer.

The chap who oversees all this, Finance Minister Paschal Donohoe, is happy that some nice, rich people have managed to put this unfortunate misunderstanding behind them.

In fact, Paschal got to play guardian angel to the stockbrokers.

There's a pay cap in banking because of the damage the overpaid bankers did when they ran riot pre-2008. As soon as Bank of Ireland bought Davy, the cap would apply to the stockbrokers, as employees of the bank.

The Davy stockbrokers would be reduced to a maximum of €500,000 a year. We can only imagine what anguish this would cause in the leafy suburbs and gated communities of south Dublin.

Happily, Paschal stepped in. Where Davy income is concerned, the pay cap will not be allowed dim their futures.

Among those who will make money from the sale of Davy are a number of the Lucky 16, who own significant numbers of Davy shares.

One of the top lads in the consortium is reported to be about to make €70m or so from the sale.

Last week, that same top lad assured the *Business Post* the whole controversy involved a "gross misunderstanding of the nature of the transaction" on the part of those who bad-mouth Davy.

As for the media... "A lot of truth was actually lost in the reporting," he said.

Now, may I explain why the media might get something wrong in this controversy?

Details on record are few, no one is talking. No explanations are forthcoming. A matter of significant public concern is far more shrouded in uncertainty than it ought to be. We don't even know who all the Lucky 16 are.

Yet one of the top lads complains that truth was "lost in the reporting".

This same top lad reminded us all that in the Central Bank report on the controversy, there were "no individual findings against any of the shareholders". And that's true — the Central Bank's language was remarkably passive.

So, here we have a controversy involving millions of euro, in which a bunch of lads are at the same time both sellers and buyers of a bond — yet no one broke any rules, no one broke any laws, there were just some "failures" of regulatory oversight, and we all move on.

Now, if a handful of fivers went missing from my local bingo club, it wouldn't be long before we'd have the constabulary dusting the place for fingerprints.

Therefore, we can conclude that in the Davy case the authorities are totally confident no laws or rules were broken.

What unhappy accident led the Lucky 16 to risk a conflict of interest



and end up on both ends of a transaction — sellers and buyers?

As I say, I've got a theory about that. Let's look at the mechanics of what happened — what did the Lucky 16 actually do?

The Central Bank report was a bit misty on that. It said Davy "failed" to do this and that. The word was used 16 times in the report — implying the stockbrokers tried like hell to do the right thing but somehow "failed".

I'll tell you precisely what happened — and why it proves my theory.

In a highly regulated business, how do you manage to get into a position where you're both selling and buying

a bond with the owner of the bond kept in the dark about who is actually buying it? It's very simple. As simple as A and B — literally.

There are two trading systems in Davy. Internally they are known as System A and System B.

Any broker doing personal business, buying or selling on their own account, must use System A.

When doing work on behalf of institutional clients, the broker must use System B.

In buying the aforesaid rich guy's bond, on their own behalf, the Lucky 16 were supposed to use System A. Instead, they opened a transaction account on System B.

Does it matter? Yes, and here's why. If they opened the account on System A, the transaction would have been scrutinised by the firm's compliance unit.

All such financial institutions have compliance units, to ensure no one gets into any conflict of interest and that all applicable rules and laws are complied with.

System B, being for institutional clients, is not monitored by Davy's compliance unit.

Now, the procedure doesn't get much simpler than this. Is it a personal transaction by a staff member? Yes: use System A, with compliance scrutiny.

Is it a client transaction? Yes: use System B, with no scrutiny.

Yet for their personal account transaction, the Lucky 16 chose System B.

Had they chosen System A, their activities might have been questioned by compliance and the whole controversy avoided.

Why did they choose the system without scrutiny? One might draw certain conclusions.

Yet — and here's the point — no authority appears to have done so. No one has said in blunt language why they think that happened.

Not the Central Bank, or any other regulatory authority, not Paschal or any of his people.

In a simple choice between — literally — A and B, the Davy top lads chose the wrong one, using the client system rather than the staff one.

So, what conclusion can we reasonably draw?

The conclusion I draw is that all the appropriate bodies — including Paschal — have checked that no rules or laws were deliberately broken. That's part of their job of oversight.

Micéal Martin has described the Davy controversy as an example of "an appalling culture of greed"; therefore, we can take it for granted that all authorities with a duty of scrutiny have assured themselves there has been no other behaviour — no law or rule broken — that we should know about.

Given this, the remaining explanation is the only plausible one: in a simple choice between A and B, the top lads in stockbroking are so thick they chose the wrong course out of sheer ignorance. I rest my case.

Paschal got to play guardian angel to the stockbrokers. Happily, he stepped in to ensure the anguish of a pay cap will not be allowed to dim their futures

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## Why are we so slow to reduce limits on our killer rural roads?

**Geraldine Herbert**

**G**iven the stress of city driving and the high speeds on motorways, you might think driving in the countryside would be safer. But this simply isn't true. In fact, more than four-fifths of all road deaths this year have taken place on rural roads. This is not an isolated case. In 2015, an EU report on road safety concluded fatalities in rural areas were highly over-represented in Ireland compared with the EU average. Since 2017, the proportion of deaths on rural roads has risen from 74pc to 82pc this year.

Why are so many road deaths occurring on rural roads and, in particular, roads with an 80kmh speed limit? Most collisions are due to driver error, and it is likely that common causes are drivers losing control of their car when overtaking or driving too fast. However, when collisions are not evenly spread throughout the road network and specific types of roads record significantly higher rates, clearly there are other factors involved. Rural roads have higher average speeds than urban roads and are often narrower, with sharp corners and blind bends.

Road user behaviour is a major factor in crashes, and countless studies demonstrate that drivers modify their behaviour according to the risk they perceive. Risk comes in many forms, from getting caught speeding to being injured and/or injuring others. Risk perception has been the subject of much research in Australia, where more than 70pc of the population live in major cities but over 50pc of road deaths occur on rural roads. Studies highlight the disparity in attitude and behaviour between driving on rural and city roads. Generally, drivers not only believe rural roads are safer, but often claim more road fatalities occur in city areas. Could this be the case in Ireland? Do drivers perceive rural roads to be safer?

It is likely that one of the key components in risk assessment is the

speed limit. Driving speeds directly impact the risk of being involved in a crash and the severity of an injury. A reduction in speed is associated with a decrease in the collision rate. An often-quoted variable is that a reduction of 1mph (1.6kmh) in speed leads to a 5pc reduction in the accident rate. So would lower speed limits make rural roads safer?

A 2018 Swedish study found that when speed limits decreased by 10kmh, the average speed on roads decreased by around 2kmh to 3kmh, but an increase of 10kmh resulted in an average increase in speed of 3kmh. The most compelling aspect of the study was that where speed limits on rural roads were reduced from 90kmh to 80kmh, the number of fatalities decreased by 14pc per year. This is equivalent to about 17 lives saved per year due to the changed speed limits. If this is the impact of reducing speed limits, what are we waiting for?

Local authorities are currently in the process of reviewing and updating their speed limit by-laws. Given the unique dangers posed by rural roads, surely many will be considering lowering limits. However, in direct contrast to this, Kildare County Council proposes to alter many of the speed limits across the county and, in some cases, increase them.

These proposals are now at a public consultation stage, but it is unlikely the concerns of the public will be heeded. Councillors in Naas made 56 submissions highlighting issues such as the capacity of the road to cater

for the recommended speed safely. Forty-eight were rejected, including a call for a 30kmh limit on the Naas Canal Road, a route favoured by walkers, cyclists and children and one the council has made a car-free zone on Sundays.

The request was denied on the basis that as the road was not designed for shared use by pedestrians, cyclists and cars in compliance with the speed limit guidelines, the default 50kmh limit was appropriate. The actual risk is ignored to comply with the advisory guidelines. Meanwhile, objections were also raised about a proposal to increase the limit from 60kmh to 80kmh on a road frequently used as a "rat-run" to avoid congestion in Naas.

Again, this change was deemed in compliance with speed limit guidelines. What are these guidelines that recommend a road popular with walkers and children going to the local rugby club should have an 80kmh speed limit?

The 'Guidelines for Setting and Managing Speed Limits in Ireland' provides guidance for local councils when setting speed limits on rural roads. One of the recommendations is that "lower speed limits on their own without supporting physical measures, driver information and publicity will not necessarily change driver behaviour. The driver will therefore continue to drive at inappropriate and excessive speeds. This may lead to significant enforcement costs".

This is an extraordinary recommendation from a government department with responsibility for road safety and a commitment to reducing road deaths. The dangers of driving on our rural roads cannot be ignored any longer; such roads have proved to be consistently more dangerous than their urban counterparts. Nor can we lose sight of the fact that more than four-fifths of the nation's road fatalities occur on these roads. Tougher enforcement would most certainly make rural roads safer, but it is not an either-or situation. Lower speed limits would also reduce serious injuries and deaths.

It seems extraordinary that a review of rural road speed limits is not a matter of urgency if we are serious about reducing the number of people killed or injured. Instead, local authorities risk many lives by proposing to increase speed limits.

What are the guidelines that propose a road popular with walkers and children should have an 80kmh speed limit?

# On the trail of the long black coat

## Gene Kerrigan



It has been a long time since I sat in Cork Circuit Court, where Ian Bailey was suing eight newspapers. I remember glancing across the room, thinking how odd it was that we were all sitting so calm, so civilised, with Bailey — a man who committed a terrible murder — right in the midst of us. Even then, we all knew he did it. There was no doubt about it.

Today, 17 years later, with two new TV documentary series available on Netflix and Sky Crime, social media flares up with the indignation of those who have discovered the details of the case for the first time.

And they all know Bailey did it. No doubt whatsoever. So, tell me this: what happened to Bailey's long black coat? It was a crucial piece of evidence.

Jim Sheridan's documentary on Sky was uneasy. It asked some hard questions. The Netflix yarn was a brisk story, regurgitating the police line.

If you followed the Netflix documentary, you know Bailey's long black coat was burned four days after the murder of Sophie Toscan du Plantier.

It was burned to ashes, behind the house where Bailey lived, on St Stephen's Day 1996. It was burned to destroy any forensic evidence that would have tied Bailey to the murder.

The Netflix documentary, *Sophie: A Murder in West Cork*, not only told us that, it reconstructed the fire.

Trouble is, Bailey's long black coat was not burned to ashes — at least, not in his back yard. That story, like much else retailed about the case, is untrue.

No one can prove Ian Bailey is innocent — and given the effort he has put into making himself an unsympathetic character, not least his drunken assault on his long-time partner Jules Thomas — no one is inclined to try. Yet the case the gardai put together

back then falls apart when you test it. Let's follow the trail of the long black coat.

The wholly unreliable Marie Farrell told the police she saw a man wearing such a coat on the night of the murder, at Kealfadda Bridge, some distance from Sophie's house.

The police were already interested in Bailey. He allegedly knew about the murder before it was reported (this was refuted by a DPP analysis, based on phone records). And guess who often wore a long black coat?

It's true the man Marie Farrell described was of average height and thin build, whereas Bailey is six-foot-three and heavy. But, as the gardai repeatedly questioned Farrell, the man she saw in the black coat appeared to grow by several inches and filled out quite a bit.

*Sunday Tribune* editor Helen Callanan told Bailey on the phone people were saying he might be the killer. He replied, sure, he killed Sophie — he did it to create a story to report on.

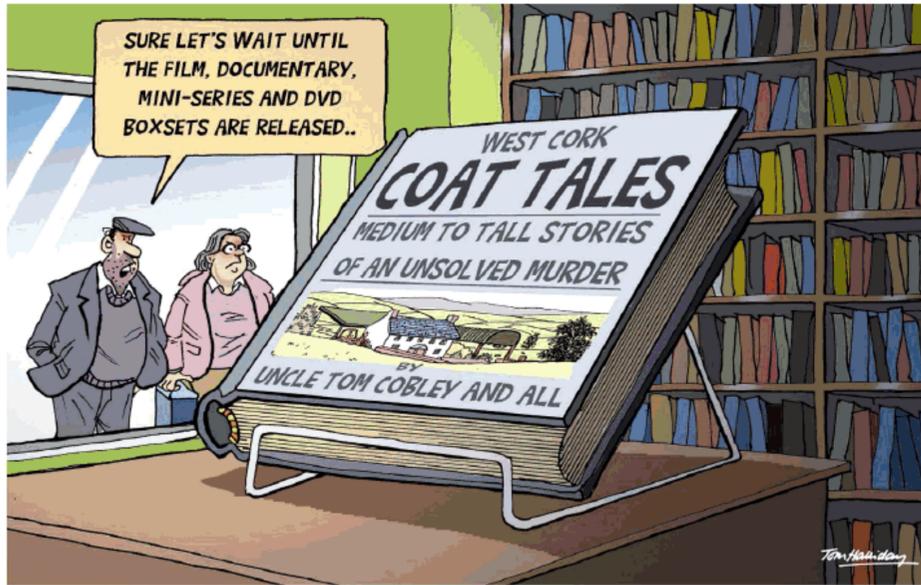
It was a weak joke. Callanan believed it was a confession and later gave evidence to that effect.

Would a vicious killer, allegedly burning evidence and seeking to escape the consequences of his actions, casually confess while under no pressure, then revert to denying he had anything to do with the crime?

Gardai thought they had their man, they warned the DPP's office Bailey would kill again. In the words of a DPP analysis of the case: "It is understood that the gardai issued similar warnings about Bailey to members of the community."

Malachi Reed, a 14-year-old neighbour, got a lift home from Bailey on February 4, 1997.

He asked a casual "How are things?" question. Bailey, irritated by the rumours circulating, replied things were fine until he went up to



that house and smashed her brains in with a f\*\*\*ing rock.

Reed was not disturbed by this. He perhaps saw the sarcasm. He didn't mention the remark to his mother when he got home.

The next day, police arrived at his school, asking questions about Ian Bailey. Reed arrived home agitated and told his mother what Bailey had said. She reported this to the police, and it became another Bailey confession. Eventually, there would be 11 such 'confessions'.

The police warnings about Bailey had an effect. Pubs went quiet when he entered, there was applause when he left. It was said he behaved oddly — he howled at the moon, some said.

An amateur sleuth went to Kealfadda Bridge looking for clues and brought his family.

Bailey suddenly appeared, and the sleuth and his family ran, screaming. A passing motorist saw their hysteria and rescued them.

It wasn't Bailey. It was a farmer who looked a bit like him.

Five days after the Malachi Reed 'confession', Bailey and Jules Thomas were arrested.

“ One garda suggested Bailey stripped naked in the depths of winter to commit the murder

Gardai swarmed over their home. Detective Garda Pat Joy carefully collected and listed a great number of pieces of potential evidence. He packed Bailey's long black coat in a brown paper evidence bag and labelled it "PJ 24".

That was six weeks after Bailey supposedly burned the coat in his back yard.

A garda saw Bailey on new year's eve — he was wearing the coat, five days after he supposedly burned it.

The coat was significant because such a garment would be briar-torn if worn by the killer of Sophie. Bailey's coat was undamaged, with no blood-stains.

Gardai speculated Bailey took off the coat and put it on again after the murder. One later suggested maybe Bailey stripped naked — in the depths of winter — to commit the murder.

Interviewed for the documentaries, a senior garda explained what happened to the long black coat. "We didn't find it. It was burned. So, for that reason, it's understandable there was no blood on him, no DNA."

We know the coat went into garda custody six weeks after Bailey burned an old mattress in the back yard, and

it remained in garda custody thereafter.

Sixteen years later, a Gsoc report on how gardai handled the case listed some of the many exhibits the police held. The third item on the list was "a black overcoat belonging to Ian Bailey". It was one of the many exhibits the police 'lost'.

Gardai put together a file for the DPP. Coincidentally, no fewer than 133 garda conversations relating to the du Plantier murder were taped — by other gardai. (It was a time when there was a lot of phone call taping going on — it's a long story.)

A garda who interviewed Jules Thomas noted he believed she was telling the truth. A tape caught two gardai discussing how they would have to "chop" that from the statement. There was also talk of "filling in" statements and of "predating" another statement.

The garda who interviewed Thomas appears to have dug in his heels — the statement stood as he wrote it. There are professionals at work in the force, although sometimes you might not think so.

There was a half-assed attempt to put political pressure on the DPP to charge Bailey. All this pressure was resisted.

Gardai publicly bad-mouthed the DPP for refusing to prosecute Bailey. Yet the garda putting the file together was taped saying privately they had only "very weak circumstantial evidence".

The Netflix documentary used an odd piece of footage of Eamonn Barnes, DPP. As the commentary solemnly explained the refusal to prosecute this dreadful murder, we were shown Barnes when he was old, retired, on crutches, laughing — it was an off-putting and belittling moment, as though he was a superficial person.

Barnes played a singular role in modernising the legal system and was a decent and committed public servant.

In difficult circumstances during the du Plantier case, he behaved with exemplary commitment to professional standards, as did his successor, James Hamilton.

I doubt if we'll ever find out who murdered Sophie, but we know Ian Bailey has been scrutinised for 25 years without anyone turning up credible evidence of his involvement.

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# Scandals just ain't what they used to be, thankfully

## Gene Kerrigan



**Y**ou call that a scandal? The Coveney/Zappone/Varadkar carry-on? Seriously? That's the kind of thing that qualifies as a scandal these days?

Yer man Coveney had a chat with yer woman Zappone about fixing her up with one of those decorative little jobs, some kind of envoy to New York, I think it was.

She, in turn, texted the other fella, Varadkar, who in turn texted yer man Coveney.

And yer man then deleted his original texts because he was afraid Vladimir Putin or the Taliban might hack into his Samsung.

And that's your idea of a scandal?

I got a wee bit excited when I heard that one of the texts was sent "from Piglet", as I assumed this was someone's pet name for someone else. Hopes were dashed when it turned out to be the name of a boozer these people frequent.

In my day, to qualify as a genuine scandal a controversy had to involve a minimum of fifty grand gone missing, seven false passports, or three secret Cayman accounts.

No one got excited unless there was a coked-up millionaire screaming from a hotel balcony, with at least one young woman hiding in the en-suite.

In those days, the majority of scan-

dals were organised by Fianna Fáil people — and those lads knew how to organise a proper scandal.

PigletGate! Ha! Amateurs!

Seriously, people. Back in the day, the scandals were serious enough to have books written about them. Actual books, with covers and all. And they sold very well.

Sure, you wouldn't get a thin chapter out of PigletGate.

In my day, there were daily double-page spreads in the newspapers, just to keep up with scandalous developments.

Then, Vincent Browne hired a cast of actors to dramatise a stenographer's transcripts on the radio each evening, so we could hear for ourselves the drama of that day's tribunal evidence.

In my day, we took our scandals seriously, because serious people did serious things for serious money.

And there was more than a whiff of perjury in the air.

Mind you, this PigletGate micro-scandal should not be simply brushed aside.

The Coveney/Zappone/Varadkar texts reek of cronyism. You can smell the sense of entitlement. Without their supervision, how would we all survive? So, different rules apply.

Are we really supposed to get excited about whether yer man Coveney deleted texts from his phone because A) he had a phone storage problem;

or B) he was afraid his phone would be hacked; or C) he did it by accident when he was updating Candy Crush?

Reputable reporters are welcome to dig endlessly into this, but — to be honest — I just don't care about PigletGate.

Given that there were so many serious scandals for which no one went to jail, I find it hard to give headroom to The Mystery of Simon's Texts. Thin stuff, petty and dull.

Scandal? Here's a scandal. This one almost brought the State to its knees, and it affects us to this day — but respectable people don't mention it anymore.

Through the 1970s and 1980s, and well into the 1990s, there were tax frauds organised on behalf of the wealthy. Gradually, vast sums of money were diverted from the legitimate economy, and channelled through offshore cash laundries, tax-free into the pockets of the criminals.

The various tax-evasion schemes on offer were discussed and compared in the executive offices of top companies. If you were rich enough, you chose your sophisticated tax dodge with the same care you chose your car.

One of the most exclusive rackets was run literally from the boardroom of the country's biggest company.

By the mid-1980s, the politicians understood there was something like thirty million pounds illicitly stored offshore — stolen tax money.

So bad did things become, that in 1988 the politicians organised a tax amnesty — "the last chance saloon" — to allow the tax fraud criminals bring the thirty million into the legit economy on generous terms.

Just pay the tax you owe — no interest or penalties. Your last chance to become an upright citizen.

Instead of thirty million, no less than five hundred million pounds — half-a-billion — was turned in. That would be serious money today. In 1988, it was an astonishing sum.



It became apparent that outside the reach of the official economy there were vast, game-changing volumes of money siphoned away for private use. Large areas of business were operating illegally, as untaxed entities.

Five years later there was a second "amnesty". By the time the third "last chance" amnesty was arranged, around a billion had been recovered, and more than another billion had been written off — taxes due but beyond recovery.

This was — in the clearest possible meaning of the phrase — organised crime.

And through the 1980s there were consequences for the economy. Huge numbers of unemployed flowed out of the country, there was an air of despair. Hospitals and wards were closed.

In the decade after 1984, they closed down 6,000 hospital beds. Nurses emigrated. The trolley culture arrived.

By 2006, when we had 5.2 hospital beds per 1,000 people, politicians declared it a "national emergency".

By 2010 — despite the alleged arrival of the Celtic Tiger — we were down to 2.7 beds per 1,000 people. That was 52pc of the EU norm for bed numbers.

By the time Covid arrived, we hadn't replaced all that was thrown away during the criminal tax racket years.

My guess is that a tax racket created for the benefit of the very rich and the very connected had by accident grown too big, drawing in the lower echelons of business. It may have dawned on some of the smarter civil servants that the economy of the State itself was endangered. And someone got the notion of reining in the out-of-control racket.

That criminal enterprise is part of the foundation on which today's indigenous private sector was built. Many of today's entrepreneurs may never know how their daddies maintained such steady enterprises in those difficult days of yore.

We only ever learned about a portion of the structure and membership of that racket. But we know that the criminal economy stretched from Taoiseach Haughey's office to the depths of your local publican's under-the-counter cash drawer.

Those identified with the tax racketeering included some who had

repeatedly advised the politicians of the need to apply austerity to the common herd — in the name of fiscal rectitude.

The PAYE sector, protesting at being over-taxed, had paid for everything. Every public servant, every traffic light and ambulance, every tax break for the comfortable classes, every press statement in which a politician warned us of "benefit cheats".

Some criminals of the shotgun-and-mask variety took advantage of the amnesties to launder their money. But most of the criminals were from the "respectable" business classes.

And, of course, you don't organise such a complex tax racket without the help of accountants and lawyers.

It was a huge transfer of wealth, from the working class to the criminal sections of the business class. And no besuited executive ever had to slop out his potty in Mountjoy.

We learned of this in bits and pieces, from tribunals. It was largely left out of the history books — how one small but influential section of the populace staged an economic revolt and devastated the country for its own profit.

Seriously, though, to get back to important matters — do you think maybe Simon Coveney decided to delete his texts because some of them used indecible language in describing some of his colleagues?

Now, that'd be out of order. I mean, that'd be a real scandal...

“ Many of today's entrepreneurs may never know how their daddies kept the wheels rolling

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