



**Tribunal of Inquiry  
Into Certain Planning Matters and Payments**

Appointed by Instrument of The Minister for the Environment  
and Local Government dated the 4<sup>th</sup> day of November 1997  
as amended by Instrument dated the 15<sup>th</sup> day of July 1998

**RULING re Application by Mr. Herbert  
for the Murphy Interest**

**OF**

**THE SOLE MEMBER  
Mr. JUSTICE FEARGUS M. FLOOD**

**Friday 7<sup>th</sup> May 1999**

**This is an application by Mr. Herbert S.C. Counsel for the Murphy interest. Mr. Herbert seeks to exclude part of the evidence of Brendan Devine on the grounds that it is related to matters contained in an affidavit sworn by the late Liam Conroy which application is at present the subject of an ex parte appeal to the Supreme Court.**

**I have heard submissions from all interested parties and have carefully considered the statement of evidence of Brendan Devine circulated on 11<sup>th</sup> January 1999 to all relevant parties.**

## **DECISION**

**The following is my decision on that application.**

**As to paragraphs 8/9 of the said statement of evidence.**

**This is the evidence of the surviving member of the Trust Council regarding the creation of the trust with which he was connected and agreed to act on such Trust Council. I am satisfied that he is qualified to give evidence on the contents of paragraphs 8/9.**

**Re paragraph 11**

This witness, is a witness of fact of a meeting attended by himself, Mr. Conroy and Mr. Murphy. The witness is clearly entitled to give evidence of his attendance of the meeting and his recollection of what transpired at it.

**As to paragraph 19**

This relates to matters of fact. The witness is himself a chartered accountant and will be giving evidence as to the source of the original trustees and the identity of the bankers used by Mr. Murphy, his then client. Prima facia he is competent to give this evidence.

**As to paragraphs 20 to 23 inclusive**

These are matters of fact within this witness's knowledge during his employment as a consultant to Joseph Murphy Senior.

**As to paragraphs 24 to 28**

These deal with the witness's personal knowledge of the direct involvement of Mr. Joseph Murphy Senior in the affairs of the trust including appointment by him of new trustees.

**As to paragraphs 27 to 30**

In fact, these paragraphs deal with the witness's personal knowledge of events in 1988 of the involvement of Mr. Gogarty, Joseph Murphy Senior and JMSE Ltd and are matters of which he had both input and knowledge.

**As to paragraph 39**

This relates to certain proceedings in the Isle of Man in which the affidavit of Mr. Liam Conroy (now deceased), referred to by Mr. Herbert was sworn. I understand that the evidence of Mr. Devine will be that to the best of his knowledge he has never seen that affidavit. It follows that he cannot give any evidence as to its content. In the affidavits (other than Liam Conroy's affidavit) which were sworn in the Isle of Man proceedings by or on behalf of Joseph Murphy Senior and the Murphy interests – copies of which have been furnished to the Tribunal by the Murphy interests – contained averments which directly concerned this witness and which he has taken issue in paragraph 40.

**As to paragraph 45**

This deals with the relationship with Mr. Murphy Senior and the various trustees and contains Mr. Devine's account of that relationship. He was at the matter time a member of the Trust Council and a chartered accountant and in my opinion is well qualified to give evidence.

As to paragraph 48

This deals with his own resignation as a member of the Trust Council in 1988 – a matter on which he is uniquely qualified to give evidence.

It should be noted that the matters dealt with in paragraph 8, 9, 19, 20, 21, 23, 24, 25, 26 and 45 do not in any way relate to the Isle of Man proceedings which commenced towards the latter half of 1988. The remaining paragraphs deal with some matters which occurred at the same time as certain matters proposed to in Mr. Conroy's affidavit. The admission in evidence of Mr. Devine's statement is not dependent or connected with Mr. Conroy's affidavit. Accordingly, I am of the opinion that the witness is qualified to give evidence on all of the matters contained in his statement of evidence circulated on January 11, 1999 to the solicitors for Joseph Murphy

**Senior, JMSE Ltd and other interested parties. I further am of the opinion that this evidence is relevant to the issues I am investigating.**

**It is to be noted that this issue was raised for the first time in the hearing today.**

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**The Sole Member of the Tribunal  
Mr. Justice Feargus M. Flood**