

1 THE HEARING RESUMED ON THE 2ND OF DECEMBER, 1999, AT 10:30

2 A.M. AS FOLLOWS:

3 .

4 CHAIRMAN: Good morning everyone.

5 .

6 MR. MacENTEE: Before the Tribunal resumes, I wonder if

7 the Tribunal would be so kind as to note my attendance on

8 behalf of Mr. Frank Connolly?

9 .

10 CHAIRMAN: I note your attendance Mr. MacEntee, thank you

11 very much.

12 .

13 MR. DILLON: It is unlikely that we will reach any matter

14 relevant to Mr. Connolly until after lunch. I don't know

15 if that is of any assistance to Mr. MacEntee?

16 .

17 MR. MacENTEE: It is of very considerable assistance.

18 .

19 CHAIRMAN: Put it another way Mr. MacEntee, we won't deal

20 with anything in your absence.

21 .

22 MR. MacENTEE: You are very kind. Thank you very much.

23 .

24 CHAIRMAN: We will, presumably, be sitting again at a

25 quarter past two?

26 .

27 MR. MacENTEE: I am much obliged.

28 .

29 CHAIRMAN: If that applies to anybody else who has a

30 special interest, I mean I can't govern what Ms. Dillon is

31 going to deal with, but if there is a special aspect that

32 they want to deal with, only special, Ms. Dillon might -

1       you might talk to Ms. Dillon for a moment.

2       .

3       MR. MacENTEE: I do also understand, Sir, that you are  
4       committed to hearing a particular witness at a quarter past  
5       two?

6       .

7       MR. DILLON: That is correct, Sir. Father Rigney is being  
8       taken at 2:15. It is anticipated he will take no more than  
9       10 or 15 minutes.

10      .

11      CHAIRMAN: That is a maximum, Mr. MacEntee. There is no  
12      doubt about that.

13      .

14      MR. MacENTEE: I am obliged for that assistance.

15      .

16      CHAIRMAN: Mr. MacEntee, this Tribunal will not be sitting  
17      tomorrow because I will be in the Central Criminal Court.

18      .

19      MR. MacENTEE: Thank you.

20      .

21      CHAIRMAN: Very glad to help. Can we carry on?

22      .

23      REGISTRAR: Decision of the Sole Member in relation to an  
24      application for discovery.

25      .

26      CHAIRMAN: On Tuesday, January 29th, 1999, I set out the  
27      circumstances in which the making of an Order for Discovery  
28      would be considered by the Tribunal. Having reviewed the  
29      decision of Lord Justice Brett in *Companie Financiere du*  
30      *Pacifique V Peruvian Guano Company* and the decision of  
31      Finlay CJ in *AIB V Ernst and Whinney, 1993 IR*, I stated:

32      .

1 "In the context of an inquiry, discovery is directed  
2 towards establishing whether there is any documentary basis  
3 which would either corroborate the allegation which is  
4 being made, either in the Terms of Reference or otherwise,  
5 or which could have the opposite effect, and exonerate the  
6 person against whom the allegation is made. The parameters  
7 must be such that every document relating to matters in  
8 question in the inquiry which would not only be evidence on  
9 the specific issue, but also which it is reasonable to  
10 suppose contains information which may, and I underline the  
11 word may, not which must either directly or indirectly  
12 enable the investigator to advance the proof of the  
13 allegation or to establish the contrary is desirable".

14 .

15 In my ruling on Friday the 19th of March 1999 - sorry, In  
16 my ruling on Friday, March 19th, 1999, I determined that  
17 the consideration of the contents of the affidavit of Liam  
18 Conroy sworn on the 20th of March of 1989 may have some  
19 probative value on matters relevant to the Tribunal's Terms  
20 of Inquiry.

21 .

22 In the course of this original affidavit the Deponent  
23 deposed to certain facts which, if true, could have an  
24 adverse consequence for Mr. Murphy Snr. when had they been,  
25 had they been known to the appropriate Revenue authorities  
26 in the United Kingdom, Ireland or Guernsey as the case may  
27 be.

28 .

29 The fact of the Conroy affidavit having been sworn and it's  
30 contents, are relevant to the Terms of the Inquiry because  
31 it has been suggested by James Gogarty that the fear of  
32 disclosure of these contents to the Revenue authorities had

1 motivated Joseph Murphy Snr. towards selling the lands in  
2 North County Dublin rather than jointly developing them  
3 with Michael Bailey.

4 .

5 In a subsequent affidavit sworn by Liam Conroy on the 25th  
6 of April, 1990, Liam Conroy identified two financial  
7 institutions in Dublin in which he alleged Joseph Murphy  
8 Snr. had deposited money using English accommodation  
9 addresses, and thereby accrued deposit interest without  
10 deduction of tax. While this affidavit has been the  
11 subject of a specific Order for Discovery to the Tribunal,  
12 it had not been produced prior to the commencement of the  
13 taking of evidence on Commission in Guernsey and came to  
14 the Tribunal ultimately as a result of direct contact with  
15 the High Court office in London.

16 .

17 The existence of bank accounts in Ireland in the name of,  
18 or under the control of Mr. Joseph Murphy Snr. may have  
19 probative value in determining whether or not payments were  
20 made to third parties coming within the Terms of Reference  
21 of the Tribunal. Consideration of such accounts may  
22 indicate that they have no relevance to the matters  
23 currently under investigation, however, the fact that Mr.  
24 Murphy has provided the Tribunal with a sworn affidavit to  
25 the effect that he has had no bank accounts in Ireland  
26 since 1976, coupled with similar evidence on oath,  
27 contrasted with the fact that information has since been  
28 provided to the Tribunal from financial institutions, which  
29 prima facie suggest that he had accounts in Ireland in the  
30 mid or late 80's, obliges the Tribunal to discover whether  
31 or not any further financial accounts existed during that  
32 period.

1 .  
2 Two separate distinct reasons exist which oblige the  
3 Tribunal to make further discovery in this matter:

4 .  
5 (1) The fact that Mr. Murphy, while sworn on oath, told the  
6 Tribunal that he did not have any such accounts, whereas it  
7 would appear, prima facie, that such accounts existed  
8 raises the question, raises the question as to his  
9 credibility as a witness.

10 .  
11 (2) The existence of accounts in Ireland during the period  
12 under investigation by the Tribunal, where such accounts  
13 have been denied by the account holder, would prima facie  
14 merit inquiry into the nature of, and the transactions  
15 carried out through such accounts in order to establish  
16 whether or not they may have a bearing on matters under  
17 investigation.

18 .  
19 Accordingly, I am disposed to the making of an order in the  
20 terms set out in the Tribunal's letter of the 23rd of  
21 November, 1999. Notice of my intention to do so will be  
22 given to the financial institutions in accordance with the  
23 procedures already adopted in discovery matters.

24 .  
25 MR. COONEY: Does the Order cover the period set out in  
26 the period, the period of 24 years, Mr. Chairman?

27 .  
28 CHAIRMAN: Yes.

29 .  
30 MR. COONEY: Can I respectfully ask Mr. Chairman how is  
31 that justified when you are considering payments made in  
32 '87, '88 or '89?

1 .

2 CHAIRMAN: Mr. Cooney, I don't propose to justify my  
3 decision. That is my decision.

4 .

5 MR. COONEY: May it please you.

6 .

7 MR. O'NEILL: May it please you Sir.

8 .

9 MR. COONEY: Could I, just for the record Mr. Chairman,  
10 point out that in the course of his evidence, a matter that  
11 you didn't refer to in your ruling that Mr. Murphy said, he  
12 gave permission to the Tribunal to make inquiries into two  
13 specific accounts. I think in fairness to Mr. Murphy, that  
14 should be recorded as well.

15 .

16 CHAIRMAN: Mr. Cooney, I accept that that is true. At the  
17 request from counsel, as far as I recall.

18 .

19 MR. O'NEILL: That was specifically referred to in the  
20 communications which have passed between the Tribunal and  
21 Mr. Murphy's lawyers.

22 .

23 MR. COONEY: But not referred to in your ruling. I think  
24 in fairness to Mr. Murphy that matter should be adverted  
25 to.

26 .

27 CHAIRMAN: The matter has now been adverted to. I  
28 acknowledge that you are correct.

29 .

30 MR. COONEY: Thank you very much Mr. Chairman.

31 .

32 MR. O'NEILL: Thank you Sir.

1

JOSEPH MURPHY JNR. CONTINUED IN DIRECT EXAMINATION BY MS.

3

DILLON AS FOLLOWS:

4

5

Q. MR. DILLON: Good morning Mr. Murphy?

6

A. Morning.

7

Q. I want to turn to talk this morning to meetings that you

8

say took place in February of 1992 with Mr. Gogarty?

9

A. Correct, yes.

10

Q. And you are familiar with the meetings that I am talking

11

about?

12

A. I am.

13

Q. Can you tell me, first of all who initiated the contact in

14

respect of the meetings?

15

A. There was a conversation between Frank Reynolds and Jim

16

Gogarty. I am not sure who contacted who. I am under the

17

impression that Mr. Gogarty contacted Mr. Reynolds. I will

18

stand corrected on that, but that's my impression on it, to

19

try and resolve the outstanding P60 matter.

20

Q. This was in February of 1992 when the proceedings were

21

ongoing?

22

A. Yes. The first meeting occurred on the 10th of February.

23

Q. Yes. Can you tell me how you are so sure that the first

24

meeting was on the 10th of February, Mr. Murphy?

25

A. Because in the file that I discovered to the Tribunal I

26

have the 10th "meeting Gogarty on the 10th and the 17th";

27

met 10th and the 17th.

28

Q. Is this a page on which this is handwritten or is this an

29

extract from a diary?

30

A. No Ms. Dillon, it is on the actual folder itself, on the

31

grey folder that I had the 10th and the 17th.

32

Q. On the outside of the grey folder?

1 A. That's correct.

2 Q. You wrote in by hand, that on the 10th and the 17th you had  
3 met Mr. Gogarty?

4 A. I just wrote 10th and 17th. I think it is: "Met JG, 10th  
5 and the 17th".

6 Q. Yes. Did you make that note on the outside of that folder  
7 on the day on which you met Mr. Gogarty?

8 A. I am not sure. I think it might have been, I am not sure  
9 when I wrote that. Certainly when the Tribunal was set up  
10 and all that, it was on it, so it could have been  
11 afterwards. It could have been at that time.

12 Q. If it was afterwards or following the dates on which you  
13 say you actually met Mr. Gogarty you would have had to have  
14 been able to fix the date of the meeting by reference to  
15 something; isn't that right, Mr. Murphy?

16 A. Correct.

17 Q. Can you tell me what it was that made you sure that you  
18 fixed the dates of the two meetings correctly?

19 A. Because as I said I wrote it on the actual folder on the  
20 outside of the folder.

21 Q. But you have already told me that you wrote on the outside  
22 of the folder on some day, some period of time following  
23 the meetings; isn't that right?

24 A. Yeah, I don't know when it was, yeah.

25 Q. Can you tell me how it was that you were so sure that the  
26 meetings were on the 10th and the 17th?

27 A. Well, I think I probably checked this out with Mr. Maher as  
28 well, because we left the first meeting and, you know, I  
29 don't want to jump ahead, I will answer your question in a  
30 minute. I think the first meeting that our respective  
31 accountants would meet. John Maher and Mr. Gogarty's  
32 accountant, Mr. Seamus Howley, would meet. I think in



1 discussions with him he confirmed to me that it was in that  
2 week, so it was in, when I was investigating these, in  
3 discussions with Mr. Maher and as I say, the reference on  
4 the folder, 10th and 17th. That is how I recall the two  
5 meetings.

6 Q. You are saying that you, are you saying that you put the  
7 reference "10th and 17th" on the outside of the folder as a  
8 result of a discussion with Mr. Maher?

9 A. No, I didn't say that.

10 Q. All right. Then, can you tell me how it is that you put  
11 the dates 10th and 17th on the outside of the folder?

12 A. I put it in sometime, Ms. Dillon. I don't know when, but  
13 when this Gogarty file that I had with me when I met Mr.  
14 Dermot Ahern, those two dates were written on the outside.  
15 When I put it on I am not sure, but the dates were on it.

16 Q. So you would have put the dates on it sometime between  
17 February of 1992 and June of, July of 1997 when you met Mr.  
18 Ahern?

19 A. That would be fair, yes.

20 Q. Sometime in that period?

21 A. Yes.

22 Q. Do you have your diaries available in respect of that  
23 period?

24 A. No.

25 Q. Were you in a position when you made the entry, do you have  
26 any recollection of going back to your diary and checking  
27 to see?

28 A. No.

29 Q. All right. So can you tell me what day of the week, can  
30 you remember, that you met Mr. Gogarty?

31 A. I think, and this is on checking back, I think that the  
32 10th of February was a Monday.

1 Q. So you checked that against a calendar or something, did  
2 you, Mr. Murphy?

3 A. I checked it against something, yeah, maybe documents or  
4 whatever you know? That I had in or around that period,  
5 yes.

6 Q. So you went to the meeting with Mr. Gogarty. If you tell  
7 us what transpired at that meeting, tell us where it took  
8 place?

9 A. At the Berkley Court Hotel.

10 Q. Who was present at that meeting?

11 A. Just myself and Mr. Gogarty.

12 Q. Can you tell us what transpired at the meeting?

13 A. We started off the meeting, you know, amicably. I think  
14 that I asked Mr. Gogarty, you know, what he was doing for  
15 the last few years, etc., he said that he had spent a lot  
16 of time down the country with his daughter, and he was  
17 looking after his family. I think he mentioned that in  
18 that intervening period two members of his family had  
19 houses and he was giving them advice on it and helping them  
20 and all that. He certainly told me that he spent a lot of  
21 time down the country, I think maybe with a daughter.

22 .

23 We soon lead into the reason why we were at that meeting,  
24 which was the P60 issue and Mr. Gogarty, as you know, had  
25 been paid his, the 300,000 part of his pension from three  
26 different companies.

27 Q. Three of the land owning companies?

28 A. Three of the land owning companies, yes. And from Mr.  
29 Gogarty's point of view the agreement was with Lajos  
30 Holdings and he wanted one P60 from Lajos Holdings rather  
31 than three P60's from the land owning companies.

32 Q. Yes, can I stop you. What was the difficulty with giving

1 him one P60 from Lajos Holdings?

2 A. Well, at the time we received tax advice that this would be  
3 the best way to do it, company wise, and I must add in  
4 there Ms. Dillon, that this was scrutinised, I think by two  
5 different sets of accountants, and scrutinised by the  
6 Revenue afterwards, and accepted before anything was said.  
7 I must emphasis that.

8 Q. Yes, I am not suggesting otherwise, Mr. Murphy. I am  
9 asking you, when you say that you got tax advice, are you  
10 saying it was tax-efficient for the company?

11 A. Of course, yes.

12 Q. To pay the three P60's across three of the land owning  
13 companies?

14 A. Yes, I am glad you used the word "efficient".

15 Q. I am sorry Mr. Murphy?

16 A. I am glad you used the word "efficient" I think Mr. Gogarty  
17 used the word "avoidance" when he was up here in the  
18 witness stand.

19 Q. Yes. It was tax-efficient from the company's point of view  
20 to pay Mr. Gogarty three P60's over three of the land  
21 owning companies?

22 A. Correct.

23 Q. And that was the advice that you had got?

24 A. That was the expert financial advice that we had got at the  
25 time, yes.

26 Q. And that, therefore, is what the companies wanted to do?

27 A. Correct.

28 Q. Right. Mr. Gogarty didn't agree with this?

29 A. No.

30 Q. And he instituted his proceedings in respect of same and he  
31 wanted one P60 paid from Lajos Holdings from whom he had  
32 had his agreement?

1 A. Correct.

2 Q. Whether you agree or disagree with his reasons for so  
3 doing, that was his view for so doing at the time?

4 A. Yes.

5 Q. The purpose of the meeting in the Berkley Court in February  
6 of 1992 was to see if this issue could be resolved?

7 A. Correct.

8 Q. Right. So you had a reasonably amicable conversation to  
9 start?

10 A. Yes.

11 Q. And did it proceed in that fashion?

12 A. No. I think I brought up the P60 issue. I think that it  
13 didn't matter. Mr. Gogarty was no better or no worse off  
14 financially, which way he got the pension agreement. It  
15 didn't matter to him. Obviously there was, it was  
16 tax-efficient from the company's point of view to pay him  
17 from the three companies. But Mr. Gogarty himself was no  
18 better or no worse off, and I emphasised this point to  
19 him. I said that: "What is the problem" sort of thing  
20 "Jim" you know? And he started getting annoyed and his  
21 grievances and Conroy, and Conroy, Mr. Conroy, he seemed to  
22 be under the impression that Mr. Conroy's settlement was a  
23 million pounds. I pointed out to him that the settlement  
24 with Mr. Conroy was about 600 odd. He started getting  
25 annoyed, banging the table. Mr. Sweeney, I think Marcus  
26 Sweeney the ex Managing Director, he displayed extreme  
27 venom for him at that meeting. I think he actually said  
28 "if I could get that man I could kill him. I could kill  
29 him". This was just the way he was getting at the time. I  
30 smiled at him. I said to him "Jim is that not a bit  
31 extreme"? I took it in a kind of a jocular fashion and  
32 banging his fists on the table. "I would be willing to do

1 my time in Mountjoy. I would be willing to do my time in  
2 Mountjoy just to kill that man".

3 Q. Where exactly in the Berkley Court did that take place?

4 A. If you walk in to the Berkley Court, on the left-hand side,  
5 I think there is a couple of steps up into the bar, we were  
6 in the corner in the right-hand corner.

7 Q. Yes, a public place?

8 A. It was in a public place, yes.

9 Q. And what did Mr. Gogarty have to say to your concerns about  
10 the P60's?

11 A. He said that he could be double taxed the way the P60's  
12 were issued. It was a technical accountancy matter and he  
13 said that he had got advice that the way the pension had  
14 been paid, that it was quite likely that the Revenue  
15 authorities may tax him twice on it. I pointed out that  
16 this was highly unlikely, that if this was pointed out to  
17 the Revenue Commissioners they were highly unlikely to tax  
18 somebody twice on the same amount of money, you know what I  
19 mean? A mistake or whatever, the whole thing could be  
20 sorted. I offered to give him an indemnity. I said "we  
21 will give you an indemnity, a company indemnity in case  
22 this happens, and our respective solicitors could draw it  
23 up".

24 .  
25 The issue of costs, I said "if costs are reasonable, you  
26 know, we would look at that, if we could resolve this  
27 amicably". So I think you know, again he ranted and raved  
28 about various different matters. I don't think I will go  
29 into them in detail. He did bang the table and he said  
30 "listen, mark my words if this isn't sorted" you know "I  
31 will destroy you" you know, "mark my words, if isn't sorted  
32 I will destroy you, mark my words". I think that we left

1 that meeting and agreed that our respective accountants, on  
2 Mr. Gogarty's side Mr. Seamus Howley and Mr. John Maher  
3 would meet to see if they could iron out these accountancy  
4 technicalities.

5 Q. Yes and Mr. Gogarty's concern was that he felt that he was  
6 at risk as he told you, of some type of double taxation?

7 A. That's correct.

8 Q. And he wanted the matter sorted. It was a matter of  
9 concern to him.

10 A. Yes, at that meeting, yes.

11 Q. Right. Did you have a subsequent, I should just tell you  
12 Mr. Murphy. We have done a search in relation to the file  
13 cover you spoke about with the two dates. That has not  
14 been discovered to the Tribunal?

15 A. It is a folder, it isn't a note.

16 Q. All of those are scanned in.

17 A. They would be on the computer.

18 Q. It isn't on the computer, we don't have it?

19 A. I will bring it in to you on Monday morning.

20 Q. That would be great, Mr. Murphy. You said that you had  
21 some documents yesterday that you wanted to hand in to the  
22 Tribunal. We would be happy to take those as well, thank  
23 you?

24 A. Okay.

25 Q. You had a second meeting with Mr. Gogarty?

26 A. Yes. Mr. Howley and Mr. Maher met in the intervening  
27 period. I stand corrected on this, but I think it may well  
28 have been the day after the first meeting, but I stand  
29 corrected on it, but it was certainly in between the first  
30 and my second meeting with Mr. Gogarty. I think it was the  
31 next day, after the first meeting.

32 Q. And what transpired at that meeting?

1 A. What took place between Mr. Howley and Mr. Maher.

2 Q. No, your second meeting with Mr. Gogarty?

3 A. In the same place in the Berkley Court, exactly a week  
4 later.

5 Q. Who set it up?

6 A. We agreed at the first meeting that our respective  
7 accountants would meet to see if they could iron out the  
8 differences and we would then meet in one weeks time to  
9 discuss the matter again. So the second meeting was set up  
10 at the end of the first meeting.

11 Q. And what happened at that meeting?

12 A. Well, just take one little step back, I think that Mr.  
13 Maher and Mr. Howley met and they decided that the only way  
14 to resolve this particular issue would be between myself  
15 and Mr. Gogarty, and so - excuse me. When I arrived at the  
16 second meeting he was you know, again I reiterated to him,  
17 I said "listen Jim, if we give you an indemnity for this  
18 double taxation matter, and we would have a look at the  
19 costs, your costs, that is the best way that I see to  
20 resolve this matter".

21 .

22 And straight away he was like a nuclear reactor going off.

23 He again thumped the table and banged the table. He says

24 "this isn't a bloody P60 issue, this isn't a P60 issue.

25 This is about money he" he says to me. So I said "what"?

26 He said "listen, I want £400,000 and if I don't get that

27 £400,000 I'll destroy you". I pointed out to him that he

28 had got a substantial pension package, which on the 3rd of

29 October was worth over £630,000, plus a previous amount of

30 money, I am not sure of the exact amount, but it was

31 certainly when Mr. Gogarty took a that amount of money out

32 of the bank it was worth £100,000 and he reiterated "Conroy

1 got a million, I deserve a million. I want £400,000 or  
2 I'll destroy you".

3 .

4 I reminded him that he had signed the receipt and discharge  
5 document, which indicated at the time that he was happy  
6 with his pension, but he came back, he says "this is not a  
7 P60 issue. I want £400,000 or I'll destroy you. I will  
8 destroy the Murphy family and I will destroy your  
9 companies". He said that he had certain plans in place.

10 He said he would go to the Revenue, he would go to the  
11 newspapers and he would go to the police. I asked him  
12 what, I think it was the Guards, I said to him, "what  
13 specifically are you going to go to them about"? He said  
14 "you are young, you are inexperienced, you don't know  
15 certain things, you are only new to the company". He said  
16 "mark my words I will destroy you if I don't get this  
17 £400,000".

18 Q. Right, so he threatened to go to the newspapers?

19 A. He threatened to go to the Revenue, the newspapers, and the  
20 Guards.

21 Q. Yes.

22 A. He was in a fury, as I said he was like a nuclear reactor,  
23 he was blown up. It was embarrassing.

24 Q. Right.

25 A. Because we were in a public place.

26 Q. And he said, or gave you the impression that he had  
27 information that he could go to the police, the Revenue or  
28 the newspapers with?

29 A. He said "you are new to the company. You are new to the  
30 company". He says, he also said: "I have files taken out  
31 of company. There are things you don't know, you are  
32 young, you are inexperienced" he said "I will tell you, I



1 will destroy you and I will destroy the Murphy family and I  
2 will destroy the Murphy companies if I don't get this  
3 money". I felt threatened and intimidated. I felt he was  
4 trying to exploit my lack of experience at this level to  
5 bully and intimidate me.

6 Q. You were Chief Executive of the Murphy Group of companies,  
7 Chairman for the last two years?

8 A. Yes, two years isn't a lot of experience to be Chairman of  
9 a company. You know I was young at the time.

10 Q. Yes. And you had had a number of years experience before  
11 that working in England at a fairly reasonably high --.

12 A. I felt threatened and intimidated.

13 .

14 MR. COONEY: Is Ms. Dillon cross-examining this witness or  
15 is she bringing him through his evidence in direct  
16 examination? Can we can we sort this out? I understand  
17 that the Tribunal is to present all evidence in an  
18 impartial fashion. It seems to me if this is to be done,  
19 this witness should be brought through his evidence and not  
20 cross-examined on his evidence. Now, can she not just  
21 bring him through his evidence? If she wants to raise any  
22 other matters she can do that when she is re examining him  
23 after everybody else has examined. It would save a lot of  
24 time.

25 .

26 CHAIRMAN: Carry on Ms. Dillon, as you are.

27 .

28 MR. COONEY: That a ruling against me?

29 .

30 CHAIRMAN: Mr. Cooney, the situation is this, we are  
31 carrying out an inquiry. The witness has given a version.  
32 Ms. Dillon is entitled to probe that version to ascertain

1 whether or not this is capable of standing up. The inquiry  
2 is - the object to get the facts.

3 .

4 MR. COONEY: Very well.

5 .

6 CHAIRMAN: I don't think she has done anything which is  
7 unreasonable. She has asked him a series of questions as  
8 to whether or not he, what his situation was at the time.  
9 He has given an account. A fairly florid account. He is  
10 entitled to give a florid account if it was a florid  
11 occasion. She is entitled to check within reason. There  
12 is nothing wrong with her tone of voice or the manner in  
13 which she is carrying it out. That is my view.

14 .

15 MR. COONEY: All I want to establish is, are you ruling  
16 that your counsel is entitled to cross-examine the witness  
17 whom --

18 .

19 CHAIRMAN: She is entitled --

20 .

21 MR. COONEY: Let me finish please. Are you ruling and  
22 will you please give me a simple clear non unequivocal  
23 answer to this? Are you ruling that your counsel is  
24 entitled to cross-examine a witness whom she has called to  
25 the witness-box?

26 .

27 CHAIRMAN: I am not suggesting that she is  
28 cross-examining. She is entitled to test an answer to find  
29 out the entire content and context in which the answer is  
30 made. You may call it cross-examination. It is a specific  
31 inquiry into a particular answer which was made and she is  
32 entitled to do so, otherwise the Tribunal would be

1 conducting the inquiry with it's hands tied behind it's  
2 back.

3 .

4 MR. COONEY: May I respectfully ask you, Mr. Chairman,  
5 that are you saying to test a witness is not to conduct a  
6 cross-examination?

7 .

8 CHAIRMAN: Mr. Cooney, I am not getting into semantics.  
9 Mr. Cooney I have made a ruling on the matter. I am saying  
10 that Ms. Dillon is conducting the matter in an appropriate  
11 fashion. That is my ruling.

12 .

13 MR. COONEY: I am entitled to ask on behalf of my client  
14 for justification for you allowing your counsel to adopt  
15 this quite different tone and approach to examining this  
16 witness as compared to its approach adopted to Mr. Gogarty  
17 and some other witnesses. May I respectfully ask, in the  
18 interests of fairness, why you are permitting these two  
19 different approaches?

20 .

21 CHAIRMAN: I am not permitting any different approach. I  
22 am permitting a practical inquiry into the evidence being  
23 given by, with a view to ascertaining what are the basic  
24 facts.

25 .

26 MR. COONEY: Well then, for the record then Mr. Chairman,  
27 are you stating that there is no difference in approach  
28 adopted by your counsel, say for instance between Mr.  
29 Gogarty and this witness or between Mr. Gogarty and Mr.  
30 Bailey?

31 .

32 CHAIRMAN: There is no difference between any counsel in

1 this building at all. In each instance sought - in each  
2 instance we sought to obtain the information available from  
3 the witness.

4 .

5 MR. COONEY: Well, may I say Mr. Chairman, I respectfully  
6 disagree with that. It is plain to anybody that has been  
7 in this Tribunal that there is a marked contrast of  
8 approach and that that is unfair and what --

9 .

10 CHAIRMAN: That is a comment.

11 .

12 MR. COONEY: I want that on the record.

13 .

14 CHAIRMAN: I have made a ruling. Whatever you wish to do,  
15 but comment will not change my ruling.

16 .

17 MR. COONEY: I fully understand that, Mr. Chairman.

18 .

19 CHAIRMAN: Ms. Dillon?

20 Q. MR. DILLON: Mr. Murphy, Mr. Gogarty was very agitated at  
21 this meeting?

22 A. He was like - he was like a nuclear reactor set off.

23 Q. Did you try and sorry -?

24 A. No, no, you are okay.

25 Q. Did he, did you try and establish from him what was behind  
26 the remarks he had made about going to the journalists,  
27 going to the Revenue, going to the Gardai?

28 A. He said he would think of something. I think it was as  
29 regards the Gardai. He said he would think of something.  
30 He said he had a lot of files taken out of the company and  
31 that he had plenty of time on his hands. He said that "you  
32 are the man now, if you don't give me this money I will

1 destroy you. I'll personally take it out on you". Which  
2 is what he has done.

3 Q. And can you --?

4 A. Sorry, yes.

5 Q. Go on?

6 A. I tried to calm him down. I went through his pension  
7 arrangements. He had a dispute over the £300,000. I am  
8 not going to go into that again, we discussed the way we he  
9 wanted that yesterday. That was a grievance. He also had  
10 a grievance about the insurance on the car. He said that  
11 it wouldn't have cost JMSE any more money to run his car,  
12 which was part of the agreement on the JMSE insurance. He  
13 was giving out about the fact that he had to pay the  
14 insurance on it.

15 .

16 I brought up then the ESB portion of the pension  
17 settlement. And I said to him, you know, "Jim, that you  
18 had that figure well negotiated before the signing of the  
19 agreement" he flew off the handle altogether. He said "how  
20 else was I meant to get my money? I got legal advice. I  
21 got legal advice. Mr. Sheedy advised me not to say  
22 anything". Thumping his fists on to the table "Mr. Sheedy  
23 advised me not to say anything".

24 .

25 I said that was, I think, you know I don't want to use  
26 these words lightly, I think I said "that was corrupt of  
27 Mr. Sheedy", "corrupt, corrupt, corrupt, corrupt, corrupt.  
28 He was corrupt, corrupt. Sure they are all corrupt. They  
29 are all corrupt. All solicitors were corrupt". He said  
30 that Mr. Sheedy had robbed him blind with fees, robbed  
31 blind with fees and was corrupt and then he drew all  
32 solicitors into it. Typical, just typical. Just a typical

1 comment.

2 Q. It was your evidence yesterday, I think, Mr. Murphy, that  
3 your view of the ESB transaction and the way in which the  
4 money had been obtained was that it was improper at best  
5 and probably fraudulent that was your view, I think yes  
6 yesterday?

7 A. I don't think I used the word "improper".

8 Q. No, I think you used the word "fraudulent"?

9 A. Correct.

10 Q. Did you express that view to Mr. Gogarty at that meeting?

11 A. I did.

12 Q. Could --?

13 A. And he said --.

14 Q. Could I --?

15 A. And he said --.

16 Q. Could I finish the question? Did you express your opinion  
17 to Mr. Gogarty that in your view his conduct in relation to  
18 the £700,000 was fraudulent?

19 A. I don't know if I used the word "fraudulent" I said to him  
20 as I have just given evidence, I said "Jim, nobody knew  
21 that you had negotiated that figure. You didn't let  
22 anybody know that". He said "I let my solicitor know. I  
23 told him, he told me not to say anything. I got advice  
24 from him". He was ranting and raving "I got advice from  
25 Mr. Sheedy" and I said "well, if Mr. Sheedy gave you that  
26 advice" I said "well if Mr. Sheedy gave you that advice  
27 that was corrupt or wrong", in those sort of terms.

28 .

29 As he said "corrupt, corrupt, corrupt, corrupt" banging,  
30 "he has me robbed blind with fees. Robbed blind with  
31 fees". And then threw all solicitors into the pack, they  
32 were all corrupt, "they are all corrupt, the whole lot of

1           them". That was his kind of attitude. He reiterated in no  
2           uncertain terms if he didn't get this £400,000 that he  
3           would destroy us and personally take it out on me.

4           Q. Mr. Gogarty has told the Tribunal that there was only one  
5           meeting not two?

6           A. Excuse the French Chairman, but that is gobbledegook.

7           Q. Mr. Gogarty has also told the Tribunal that the meeting was  
8           a very acrimonious meeting. That you wanted him to drop  
9           the P60 issue and that there was an arrangement about the  
10          ESB monies in which you alleged his conduct had amounted to  
11          a fraud, effectively if I summarise what he said?

12          A. I think I just explained that. I mean the purpose of the  
13          meeting was to try and resolve the P60 issue. Again as I  
14          say the ranting and raving, and banging tables, he accused  
15          his own solicitor of being corrupt and having, about the  
16          fees, and he was just he said it wasn't a P60 issue. He  
17          said the issue wasn't about the P60. In any normal  
18          circumstances the man would have got no more or no less,  
19          regardless of which way he was paid. He was just trying to  
20          be awkward and he came out with what his plans were.

21          .  
22          He said he would go to the police, the Revenue and the  
23          newspapers if he didn't get his £400,000. And Ms. Dillon,  
24          I can say that maybe if I had agreed at that time to give  
25          him this £400,000 which I did say to him that sounds like  
26          blackmail or that is blackmail. He says "call it what you  
27          like. Call it what you like". I still believe had he got  
28          that £400,000 that he would have come back for more and  
29          more and more. That was the way he was.

30          Q. Right. I am not at all sure, Sir, from operating from  
31          memory only, that the allegation in relation to Mr. Sheedy  
32          was put to Mr. Gogarty in the witness-box, and in fairness

1 to Mr. Sheedy who is a solicitor in this town, if that  
2 allegation was not put to Mr. Gogarty, by Mr. Cooney, it is  
3 a matter that should be remedied. I will intend to leave  
4 this topic now, but the transcript will be checked, and if  
5 it wasn't put to Mr. Gogarty by Mr. Cooney, I will have a  
6 submission to make to you in relation to the matter because  
7 it must be borne in mind that while it is quite clear, the  
8 views that were held by Mr. Gogarty and Mr. Murphy Jnr. in  
9 relation to each other, when other persons are being  
10 brought into it, care must be taken in relation to that  
11 matter.

12 .

13 In fairness to Mr. Sheedy I am just flagging that for the  
14 moment. I cannot say for definite that that is the  
15 position, but my recollection is that that particular  
16 allegation was not put to Mr. Gogarty.

17 .

18 CHAIRMAN: Well, we will determine that in the light of  
19 what the information is. I am not going to determine it in  
20 anyway one way or the other until I know the facts.

21 .

22 MR. COONEY: Mr. Chairman, may I point out to you that I  
23 find Ms. Dillon's concern for Mr. Sheedy's reputation very  
24 touching. I wish she showed the same concern for other  
25 people's reputation, a solicitor's reputation is no more  
26 valuable than the reputation of my client or any other  
27 witness who appears at this Tribunal.

28 .

29 MR. DILLON: Yes. It is a concern that I also have in  
30 relation to the reputation of Mr. Frank Connolly which will  
31 be dealt with, I think later on this afternoon. It is the  
32 same way I would have the same concern for --



1 .  
2 CHAIRMAN: We will deal with these matters when they  
3 come. We are in the middle --

4 .  
5 MR. COONEY: She is showing a concern for Mr. Frank  
6 Connolly's reputation. I hope she will take into the  
7 account that the misleading information that Mr. Connolly  
8 regularly broadcasts on the radio about these proceedings.

9 .  
10 MR. DILLON: I don't listen to the radio, so --

11 .  
12 MR. COONEY: It affects people that appear before the  
13 Tribunal. As far as I am concerned --

14 .  
15 CHAIRMAN: Mr. Cooney, those are matters that you are in  
16 charge of in other departments and other -- it is a matter  
17 for you.

18 .  
19 MR. DILLON: I simply flagging it as a matter.

20 .  
21 CHAIRMAN: Let's depart from it at the moment. We will  
22 deal with it in due course, when if and when it arises.

23 .  
24 MR. COONEY: I would like to object to this impartiality  
25 that the Tribunal is showing for the reputation of some  
26 people and not others.

27 .  
28 CHAIRMAN: I have ruled I am not dealing with it now. If  
29 it arises I will deal with it in the context of the facts  
30 available to me.

31 .  
32 MR. DILLON: Just for the record, Sir --

1

CHAIRMAN: Now please --

3

MR. DILLON: The submission that I made to you was on the basis that this matter had not been put to Mr. Gogarty by Mr. Cooney in cross-examination. If that matter was put to Mr. Cooney by Mr. Cooney then I will obviously have no concern.

9

MR. COONEY: Mr. Chairman, time and time again Ms. Dillon, Mr. Gallagher, Mr. O'Neill and Mr. Hanratty have said these proceedings are not akin to lis interpartes or a criminal prosecution. Therefore, Mr. Chairman, the requirement of the counsel in those type of proceedings to put his client's case to the opposing party doesn't arise. That is one consideration which seems to escape Ms. Dillon. She can't have it both ways. She cannot proceed before this Tribunal on the basis that the ordinary rules which apply in a lis interpartes or a criminal case don't apply, and then when it suits her say they do apply. That is the first matter.

22

The second matter I would like to draw your attention to is that Mr. Gogarty was in the witness-box for, I think about 40 days. I cross-examined him for five or six days. Now, there had to be a limit in time to that. It is an absurd and sort of cheap point that Ms. Dillon is now taking.

28

MR. DILLON: Just --

30

CHAIRMAN: Just a moment sorry, could I just reply briefly before Mr. MacEntee? Please, this is becoming a debate

32

1 between counsel which I have no wish to enter into.

2 .

3 MR. DILLON: Very good Sir.

4 .

5 MR. MacENTEE: In my respectful submission, it is an  
6 inappropriate exchange between counsel, and insofar as it  
7 refers to my client should be struck from the record, it  
8 should not be pursued, and should never have happened.

9 .

10 CHAIRMAN: Well --

11 .

12 MR. COONEY: It wouldn't have if Mr. Connolly was merely a  
13 journalist reporting these proceedings, Mr. Connolly has a  
14 triple role he is the journalist that has --

15 .

16 MR. MacENTEE: I have made a submission to Your Lordship.  
17 I would invite a ruling on it. It is quite irresponsible

18 --

19 .

20 CHAIRMAN: Please Mr. Cooney, this is becoming just a  
21 slanging match and it must stop.

22 .

23 MR. COONEY: Yes; and do not accuse me of engaging in a  
24 slanging match which was started by Mr. Dillon. I do, I  
25 reject that.

26 .

27 CHAIRMAN: I require you to obey my ruling that the matter  
28 is not going to be considered now.

29 .

30 MR. COONEY: I will accept your ruling. I will not accept  
31 your description that I am participating in a slanging  
32 match, this was started by Ms. Dillon, your counsel, I

1 think your words of abuse should be addressed to her in  
2 some form of exercise of fairness in these proceedings. I  
3 do want to make the point about Mr. Connolly because I am  
4 concerned about Ms. Dillon --

5 .

6 MR. MacENTEE: I do ask Your Lordship to rule on the  
7 appropriateness of this.

8 .

9 MR. COONEY: Ms. Dillon has raised matters, not me Mr.  
10 Chairman, it was Ms. Dillon that raised the matter. She  
11 said that this afternoon Mr. Connolly is going to be dealt  
12 with, I hope in the context of the triple role that Mr.  
13 Connolly has been playing insofar of this Tribunal is  
14 concerned.

15 .

16 MR. MacENTEE: Mr. Cooney, My Lord, I didn't direct my  
17 remarks either to Mr. Cooney or to Ms. Dillon. I made a  
18 submission that it was inappropriate that the matter should  
19 have been raised at all in the way that it was. And I  
20 persist in that submission to Your Lordship, and I invite  
21 Your Lordship to rule now, and firmly, that the matter  
22 should be struck from the record and that the name of my  
23 client should not be bandied about in the way that it has  
24 been done.

25 .

26 CHAIRMAN: My view on this matter is that it is wholly  
27 inappropriate. This Tribunal is endeavoring to get to  
28 certain facts relating to a certain event. We are simply  
29 going down a cul-de-sac of abuse. Which is, does no credit  
30 to anybody involved. My view of the matter is very  
31 simple. Mr. Connolly gave evidence. He was  
32 cross-examined. That's an end to the matter. Whatever the

1 result is on the record, I will read it in due course, I  
2 will give it the warrant of authority, the warrant of  
3 approval or otherwise as is may be. That is the situation  
4 and I am not going into the issue again, and I am not  
5 hearing further submissions whatsoever from any counsel.

6 .

7 MR. COONEY: I didn't introduce the topic Mr. Chairman.

8 .

9 CHAIRMAN: Mr. Cooney please, I have made a ruling and it  
10 is not open to you or anybody else to comment on it.

11 .

12 Q. MR. DILLON: May it please you Sir. Mr. Gogarty has also  
13 told the Tribunal, Mr. Murphy, that the contact was  
14 initiated by a telephone call from you at sometime around  
15 12 midnight, I think he told the Tribunal on Day 11, that  
16 you rang him and asked for a meeting to try and resolve the  
17 issues of the worsening relationship between himself and  
18 his father; is that correct?

19 A. That is incorrect. The first meeting was arranged between  
20 a conversation, a meeting actually between Frank Reynolds  
21 and Jim Gogarty.

22 Q. And you did not ring him to arrange the meeting?

23 A. No.

24 Q. In view of your opinion of Mr. Gogarty, why did you agree  
25 to go to the meetings at all?

26 A. To try and resolve the P60 issue amicably. I that any  
27 person, if they have a dispute with somebody, if it can be  
28 resolved amicably rather than through the courts it is the  
29 most acceptable way to go about it.

30 Q. Yes. Mr. Gogarty, I think you told us yesterday, still had  
31 some sort of a relationship with Mr. Frank Reynolds; is  
32 that correct?

1 A. I think that the relationship probably deteriorated with  
2 Mr. Reynolds just because Mr. Reynolds was employed by  
3 JMSE, but certainly I think that they met on maybe more  
4 than one occasion when they are trying to resolve this P60  
5 issue amicably.

6 Q. You didn't consider that it might be sensible to bring Mr.  
7 Reynolds to either of these meetings?

8 A. No. Myself and Mr. Gogarty attended the meetings  
9 together. I did relay the content of both meetings and we  
10 haven't finished with the second meeting yet, Ms. Dillon.  
11 But I did relay the content of both those meetings to Mr.  
12 Reynolds.

13 .

14 CHAIRMAN: Ms. Dillon, may I just intervene? I am always  
15 loath to intervene when counsel are pursuing a particular  
16 topic which they may have, and obviously do have a  
17 particular reason for; but as I understand the situation,  
18 the late Mr. Justice Spain determined this matter and while  
19 it has been interesting as to what happened when the  
20 parties met, whether one or other were right in their view,  
21 Mr. Justice Spain determined, determined that Mr. Gogarty  
22 was entitled to a P60 from a particular firm. That is a  
23 decision of a court of competent jurisdiction. It has not  
24 been appealed from, and certainly I am not going to go  
25 outside it.

26 .

27 So perhaps we, unless you have a particular reason  
28 certainly to question as to who was right and who was  
29 wrong, there is a decision as to who was right and who was  
30 wrong. And that's an end to the matter. I don't wish to  
31 be pejorative to you in any way, but I do want to try and  
32 bring us back to what I am, what we are inquiring into.

1 .  
2 MR. DILLON: I am happy to leave the matter. Mr. Murphy  
3 dealt with this to some degree in his, in his statement at  
4 paragraphs I think 20 of the statement and in fairness to  
5 him, I felt that he should, he should be allowed to give  
6 his version of what happened in view of the fact that Mr.  
7 Gogarty's evidence on Day 11 was that that there had been  
8 only one meeting and the meeting arose in a certain way.  
9 Mr. Murphy has just said he is not finished with the second  
10 meeting, obviously there is some more evidence he would  
11 like to give in relation to that. I think in fairness to  
12 Mr. Murphy he should be allowed to give that evidence.

13 .  
14 CHAIRMAN: If it forms part of his, I don't actually have  
15 his statement in front of me at the moment. If it forms  
16 part of his statement he is certainly entitled to justify  
17 it, but on a very brief basis, but he is certainly not  
18 entitled to say who is right or who is wrong in relation to  
19 the P60. That is now closed.

20 .  
21 Q. MR. DILLON: I think we have moved on from the P60's and  
22 the matters that we are now discussing with the witness are  
23 the other conversations that he had with matters that were  
24 raised by Mr. Gogarty and himself in the course of the  
25 second discussion on the 17th. Mr. Murphy, you said that  
26 there was, that you weren't finished with that particular  
27 conversation and that there were other matters raised; is  
28 that right?

29 A. I think that I have raised matters in general that were  
30 discussed and the attitude that Mr. Gogarty had and, you  
31 know, I reiterate he demanded his £400,000. If he didn't  
32 he would destroy us. I stood up I said "well, you know

1       this matter obviously can't be resolved" I got up to walk  
2       out. Mr. Gogarty said "I will destroy you. Mark my words  
3       I will destroy you. You are all, you and all the Murphys,  
4       your father, your mother, the whole lot of you. You are  
5       all F-ing bastards. The whole lot of you. The whole lot  
6       of you".

7       .

8       I turned around and said to Mr. Gogarty "Jim," as I called  
9       him then I said "you know my mother is dead". He was in  
10      such a fury he responded "yes, dead. A dead F-ing  
11      bastard". That is very important in relation to what you  
12      are going to come on to in relation to the phone call. He  
13      was highly insulting. That was the fury he was in at the  
14      time. As you can see that meeting broke up acrimoniously,  
15      very acrimoniously.

16     Q. And you say there were two, Mr. Gogarty says there was one  
17     meeting. In any event it happened in February of 1992?

18     A. 10th of February and the 17th of February 1992.

19     Q. I think you didn't have any contact then with Mr. Gogarty  
20     up until March of 1994 when the P60's case was heard and  
21     Mr. Gogarty was given a decree that he was entitled to a  
22     P60 from one company; is that correct?

23     A. Correct.

24     Q. Yes; and you were present and gave evidence at that case, I  
25     think you told us yesterday?

26     A. I did.

27     Q. Did you have any other conversation with Mr. Gogarty on  
28     that occasion other than giving evidence?

29     A. No, we didn't speak at all.

30     Q. So from February '92 to March of '94 did you have any  
31     contact directly with Mr. Gogarty?

32     A. No.



1 Q. Your next contact I think with Mr. Gogarty was in June of  
2 1994?

3 A. Correct.

4 Q. These are the telephone calls, these are the telephone  
5 calls at 2 am?

6 A. Correct.

7 Q. I think that following the decision, a notice of appeal had  
8 been lodged in the Circuit Court; is that correct?

9 A. Correct.

10 Q. And I think you may have mentioned yesterday, or the day  
11 before, that Mr. Gogarty had written to the Revenue?

12 A. He either wrote to the Revenue or got somebody to go to the  
13 Revenue on his behalf with certain information which was  
14 incorrect.

15 Q. Yes. Now, that correspondence, whatever it might be Mr.  
16 Murphy, is not available, as far as I understand it, to the  
17 Tribunal. Can you tell us what you know of that  
18 correspondence with the Revenue?

19 A. I didn't deal with that. I think that we got, I think that  
20 Mr. Copsy was at one meeting, and we got somebody outside  
21 JMSE --

22 .

23 CHAIRMAN: If the witness didn't deal with it he cannot  
24 give evidence about it. So let's move on.

25 Q. MR. DILLON: Yes. Can I ask you did you ever see this  
26 correspondence from Mr. Gogarty or whoever had written on  
27 his behalf to the Revenue?

28 A. No.

29 Q. How did you come to hear about it?

30 A. Because the Revenue authorities contacted JMSE about Mr.  
31 Gogarty's allegations. I think Mr. Gogarty, and it ended  
32 in a subsequent meeting sometime in 1994 with our

1 representatives and the Revenue. Mr. Gogarty had said that  
2 he never worked for the three land owning companies. Of  
3 course this was untrue, and this was explained to the  
4 Revenue authorities at the time. I did not, I did not  
5 attend the meeting. The content was relayed back to me.

6 Q. But apparently, as I understand the sequence of events, is  
7 that somebody whom you think was Mr. Gogarty or somebody on  
8 his behalf, wrote to the Revenue Commissioners as a result  
9 of which the Revenue Commissioners --.

10 A. Wrote or spoke or made contact with him.

11 Q. As a result of which the Revenue Commissioners made contact  
12 with your company?

13 A. Correct.

14 Q. And was that by way of letter, can you recollect?

15 A. It may well have been, I am not sure now. I am not sure.

16 Q. And did a meeting or meetings take place between the  
17 Revenue Commissioners and your company?

18 A. Correct.

19 Q. And what was the subject matter of the complaint that had  
20 been made that directed the Revenue's attention in the  
21 direction of your company?

22 A. The payment of the 300,000 was part of Mr. Gogarty's  
23 pension, the three P60's.

24 Q. That was the complaint that Mr. Gogarty, or somebody on his  
25 behalf you say made to the Revenue?

26 A. Correct.

27 Q. And no other complaint?

28 A. No.

29 Q. No.

30 A. So this was his first, his first part of his plan, as I  
31 said, to go to the Revenue, the newspapers and the Guards.  
32 This was the first part of his plan.

1

CHAIRMAN: Described, that can't be described as his  
evidence, it is a comment.

4

Q. MR. DILLON: Yes. I think did the Revenue Commissioners  
contact your company sometime after March of 1994 and prior  
to June of 1994, is that the time period we are talking  
about?

8

A. I think it was going on before that. I think it was going  
on for some time before that. I don't know the exact  
dates. The matter was concluded before June of '94.

11

Q. Before June of 94?

12

A. I think in or around that time. I can't be specific with  
the dates but it certainly was concluded before, I think  
anyway, now I stand corrected, I stand corrected, maybe it  
wasn't concluded until afterwards. I am not sure. It was  
going on in or around that time. I haven't looked that the  
documentation. I can't be sure when the matter was  
concluded.

19

Q. So there was a decision of the Circuit Court in which a  
certain order was made. There was contact or communication  
with the Revenue Commissioners which may have taken place  
before the decision of the Circuit Court was taking place,  
and which might have been concluded by June of 1994 but may  
have been concluded later. You are not quite sure?

25

A. Sorry, could you just repeat that?

26

Q. The Circuit Court case was concluded in March of '94; isn't  
that right?

28

A. Okay, yes.

29

Q. And a decree was given by Mr. Justice Spain, the judge;  
isn't that right?

31

A. That's correct.

32

Q. And that decreed at that Mr. Gogarty was entitled to one

1 P60?

2 A. Correct.

3 Q. Right. Now, following that, what I am trying to establish  
4 is the communication between the company and the Revenue  
5 Commissioners as a result of Mr. Gogarty's complaint?

6 A. Yeah. I can't be precise on those dates to be honest.

7 Q. You can't be precise?

8 A. I didn't deal directly with it.

9 Q. Was it your view in or around June of 1994 that Mr. Gogarty  
10 or somebody on his behalf had been in touch with the  
11 Revenue?

12 A. Correct.

13 Q. And this contact with the Revenue was solely in relation to  
14 the issue of the P60's?

15 A. Yes. He may well have, I mean I wasn't privy to whoever  
16 went or Mr. Gogarty or whoever went on his behalf, what he  
17 actually said, but certainly when the investigation went  
18 on, it looked at the P60 issue, what else he told them, I  
19 don't know.

20 Q. Yes; but insofar as you were concerned, the issue that the  
21 Revenue were dealing with your company was the P60 issue  
22 and no other issue?

23 A. Correct.

24 Q. Right. You telephoned Mr. Gogarty in June of 1994, the  
25 morning of the 20th of June of 1994?

26 A. I did.

27 Q. Yes. Can you tell us the time of the telephone call and  
28 can you tell us what lead you to make the telephone call?

29 A. I think the time of the telephone, I mean Mr. Gogarty has  
30 in his statement 2 o'clock. I think it may have been  
31 1:15/1:30 I can't be precise, but I think that is  
32 unimportant and I want to say and I will answer your

1 question in a minute, that during the second phone call I  
2 did apologise to Mr. Gogarty.

3 .

4 I subsequently apologised to Detective McEneaney and I  
5 apologise here today to the Chairman and to the Tribunal.

6 This phone call shouldn't have happened. It was wrong to  
7 ring him at this hour of the morning and as I say I  
8 apologised for it. It was driven out of frustration.

9 Q. So what lead you to make the telephone call?

10 A. I think the fact that I had knowledge that Mr. Gogarty or  
11 somebody on his behalf had made contact with the Revenue  
12 Commissioners with false information, and those last words  
13 that he said to me in the Berkley Court which I won't  
14 repeat, were still ringing in my ears, Ms. Dillon.

15 Q. So the words that you are referring to are the words that  
16 Mr. Gogarty had, the comments Mr. Gogarty had made about  
17 your mother in February of 1992?

18 A. Yes. They still ring in my ears to this day.

19 Q. Right. And the matter that you discussed with Mr. Gogarty  
20 on the phone, what was that matter?

21 A. Well, I referred, I said "Mr. Gogarty" Jim, I think I  
22 called him, "the first part of your plan is not going to  
23 work, you are not going to get the money. Why can't you  
24 just leave us alone?" Sort of thing. "You are not going to  
25 get this money".

26 Q. Would you agree that this was a heated telephone  
27 conversation?

28 A. I would.

29 Q. And there was upset on both sides?

30 A. I would agree with that.

31 Q. And that matters didn't resolve with one telephone call. I  
32 think you rang back; is that correct?

1 A. Correct.

2 Q. And can you tell us the purpose of the second telephone  
3 call?

4 A. Mr. Gogarty put down the phone on the first telephone  
5 call. I rang him back a second time just to reiterate, as  
6 I say, it is something I shouldn't have done. I hold my  
7 hands up. It is something I have done wrong. And I  
8 apologise for it, but I did, I rang him back and again I  
9 reiterated to him that he wasn't getting any money. I  
10 think I said to him that all the people that he had his  
11 previous grievances, you know, had left the company and  
12 gone from the company, could he not go away and leave us  
13 alone.

14 .  
15 I never used, I have seen Mr. Gogarty's statement. I never  
16 used the "F word" on him. I mean I think at the beginning  
17 of the second phone call Mr. Gogarty said that he taped all  
18 his calls and that he had me on tape, I think he said  
19 something about libel and defamation and all of this. So I  
20 think Ms. Dillon, if you know, I am not that stupid to  
21 threaten him once he has told me that he has me on tape. I  
22 didn't issue any threats to Mr. Gogarty at that time. But  
23 I accept, I accept that it was a heated conversation and I  
24 accept fully that I shouldn't have made it.

25 Q. Mr. Gogarty has given evidence and I don't intend to either  
26 recite his statement or repeat the evidence, but in summary  
27 form that you made threats, physical threats against him  
28 and threats against his property. Did you do so?

29 A. I never made any threats against Mr. Gogarty.

30 Q. Well, if you were upset and heated in the course of the  
31 conversation, was the conversation solely limited to the  
32 issue of the P60's?

1 A. It was in general terms Ms. Dillon. It was about the  
2 people that had been there, you know? I probably mentioned  
3 to him about him going to the Revenue authorities. He  
4 denied it and a general discussion, in general a discussion  
5 about all that had gone -- I think I said that Mr. Conroy  
6 has left and all the people that he had his previous  
7 grievances; and yes, the conversation was heated between  
8 the two of us, but I certainly, I did not in any way, shape  
9 or form threaten Mr. Gogarty. I mean, I think we have seen  
10 him here in the witness-box and I think that Mr. Gogarty is  
11 not a man that can be threatened easily.

12 Q. Even when he is woken out of his sleep at 1:30 in the  
13 morning?

14 A. I accept that I should not have made the call.

15 Q. Did you, in the course of that, at all recollect Mr.  
16 Gogarty saying that he had not written to the Revenue or he  
17 had not got in touch with the Revenue?

18 A. Yes.

19 Q. And he denied that to you?

20 A. Yes, he did.

21 Q. You have, you don't recollect making any threats against  
22 him?

23 A. No.

24 Q. How long did the telephone conversations last?

25 A. Maybe a couple of minutes, two or three. I mean I am not  
26 sure, I am not sure.

27 Q. Yes. Where did you ring from?

28 A. Wilton Terrace, the house here in Dublin.

29 Q. On both occasions?

30 A. On both occasions. There was only a five or ten minute  
31 break between the two calls.

32 Q. Yes. Can you consider any reason why Mr. Gogarty following

1           these conversations in which you say no threats were made,  
2           would have immediately rung the Guards?

3       A.   The second part of his blackmail plot, to put the second  
4           part of his blackmail plot into operation.

5       Q.   But, you are suggesting that Mr. Gogarty used the telephone  
6           call to put the second part of his threat, to go to the  
7           Gardai, into operation?

8       A.   No. To put the second part of his blackmail plot. He had  
9           told me that he would go to the Guards, the Revenue, and  
10          the newspapers. He had already begun to the Revenue. He  
11          used that phone call and turned and twisted it to make a  
12          complaint about me to the guards. That was his second  
13          one. . It wasn't long before he put his third one into  
14          action as well, with Mr. Connolly, as well, was it?

15      Q.   This was something, of course, that Mr. Gogarty could not  
16          have done if you hadn't telephoned him; isn't that right?

17      A.   God knows what he would have said. I mean, he put blame on  
18          me on various things up higher, that I wasn't involved in.

19      Q.   If Mr. Gogarty was putting the second part of his plan into  
20          operation which was to make a complaint to the Gardai, he  
21          was doing so only on foot of the telephone conversation  
22          that he had with you; isn't that right?

23      A.   That was what he was doing, yes.

24      Q.   Yes; and this was a telephone conversation that took place  
25          at around 1:30 am, in the morning?

26      A.   Correct.

27      Q.   It was a heated telephone conversation?

28      A.   It was.

29      Q.   And Mr. Gogarty made a statement which he furnished to the  
30          Gardai, I think on the 22nd of June?

31      A.   Correct.

32      Q.   Yes; and I think Mr. Gogarty subsequently went to his own



1 solicitor at that time in relation to the matter?

2 A. He did.

3 Q. Yes. I think you spoke to Garda McEneaney and accepted you

4 had made the telephone calls, denied that you had made any

5 threats and apologised and said you wouldn't contact Mr.

6 Gogarty any more?

7 A. Correct, I apologised to Detective McEneaney. He asked me

8 not to have anymore contact with Mr. Gogarty except through

9 our respective solicitors. I gave him that assurance and I

10 have complied with that to this day.

11 Q. And did you apologise directly to Mr. Gogarty?

12 A. I apologised in the second phone call. I think that Mr.

13 Gogarty said that I apologised for upsetting Anna, or

14 whatever else, but I did apologise to him that, for both of

15 them.

16 Q. Yes; and following contact from Detective Garda McEneaney

17 would you not have regarded it as a prudent matter to put

18 pen to paper and write to Mr. Gogarty and say "I am sorry

19 about what happened. It shouldn't have happened. I regret

20 it". Something on those lines? In view of the fact that

21 you were happy that you were able to apologise to Garda

22 McEneaney in respect of what happened?

23 A. Mr. Gogarty was trying to institute civil proceedings, so

24 at that stage I was taking legal advice.

25 Q. Yes.

26 .

27 CHAIRMAN: Well, I think we will move on from that

28 subject.

29 .

30 Q. MR. DILLON: All right. Following that did you have any

31 contact at all with Mr. Gogarty?

32 A. No.

- 1 Q. Did Mr. Gogarty institute proceedings against you?
- 2 A. Yes.
- 3 Q. And prior to instituting proceedings, did he send a letter
- 4 to your solicitors Gerrard Scallan O'Brien, his solicitors
- 5 sorry, send a letter to your solicitors Gerrard Scallan
- 6 O'Brien?
- 7 A. Yeah, he was sending - I mean I think I received two or
- 8 three letters. I think he was sending them to various
- 9 addresses.
- 10 Q. I think he sent --.
- 11 A. Yes, you are right, yes.
- 12 Q. That was sent back, I think by Messrs. Gerrard Scallan and
- 13 O'Brien, they said they didn't act for you personally?
- 14 A. That's correct.
- 15 Q. I think the correspondence also went to JMSE?
- 16 A. Correct.
- 17 Q. That was also sent back, I think, on the basis that it was
- 18 a personal matter?
- 19 A. Correct. I did receive two or three letters. I passed
- 20 them over to a London firm of solicitors and explained the
- 21 background to it and I got advice from them at the time.
- 22 Q. Did you have any further contact at all from that date,
- 23 from the date of that telephone call in 1994 with Mr.
- 24 Gogarty?
- 25 A. I had no contact whatsoever, either directly or indirectly
- 26 with Mr. Gogarty. As I said I gave Detective McEneaney
- 27 assurances that the only contact would be through our
- 28 respective solicitors and I have complied with that
- 29 assurance right up to this day.
- 30 Q. You were contacted by Mr. Michael Bailey in July or August
- 31 of 1996?
- 32 A. Correct.

1 Q. And Mr. Bailey was anxious to set up a meeting between Mr.  
2 Gogarty and yourself, a meeting that was to take place, I  
3 think, in a hotel in Dublin?

4 A. Correct.

5 Q. What hotel was that?

6 A. Burlington.

7 Q. So did you agree to go to this meeting?

8 A. Reluctantly.

9 Q. Right. So can you tell me, first of all, what contact you  
10 had with Michael Bailey?

11 A. Michael Bailey rang the JMSE offices in Santry. He told  
12 Frank Reynolds, he left his phone number with Frank  
13 Reynolds and asked Frank to contact me to ring him  
14 urgently.

15 Q. And?

16 A. I did.

17 .

18 CHAIRMAN: Right. As you are going into a major topic,  
19 shall we just take a break?

20 .

21 MR. DILLON: Very good.

22 .

23 CHAIRMAN: 20 minutes.

24 .

25 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

26 AGAIN AS FOLLOWS:

27 .

28 MR. DILLON: Mr. Callanan doesn't appear to be here, Sir.

29 .

30 CHAIRMAN: Very well. We will wait a moment until he  
31 comes in.

32 .

1 MR. CALLANAN: I am sorry, Sir, I was caught unawares.

2 .

3 CHAIRMAN: It is all right.

4 Q. MR. DILLON: Mr. Murphy, just before the break we were  
5 moving on to discuss a contact you had with Mr. Michael  
6 Bailey in July or August of 1996; and I think you had told  
7 us before the break that Mr. Michael Bailey contacted Mr.  
8 Frank Reynolds and you then as a result of a telephone  
9 conversation with Mr. Reynolds, contacted Mr. Bailey?

10 A. Correct.

11 Q. Can you tell me when Mr. Reynolds rang you? What he said  
12 to you?

13 A. He said that Michael Bailey was after ringing him. He said  
14 that he wanted to discuss a certain matter with me. I  
15 don't know whether he actually said to him about arranging  
16 a meeting with Mr. Gogarty or not. I think he just left  
17 his number and I rang him.

18 Q. You rang Mr. Bailey?

19 A. Correct.

20 Q. And can you tell me what you discussed with Mr. Bailey in  
21 the course of that telephone conversation?

22 A. Mr. Bailey suggested that either me or my father would meet  
23 with Mr. Gogarty to iron out differences; and I think that  
24 he said in that phone call, if Mr. Gogarty sat down with my  
25 father I think he was emphasising on the phone call, maybe  
26 it could be sorted out with a shake of hands.

27 Q. And at this stage in July or August of 1996 had any contact  
28 been made by Mr. Frank Connolly with anybody in JMSE?

29 A. Yes.

30 Q. And I think that contact was with Mr. Frank Reynolds?

31 A. Correct.

32 Q. And certain information, or matters, were put by Mr.

- 1 Connolly to Mr. Reynolds in the course of that  
2 conversation?
- 3 A. Correct.
- 4 Q. That occurred in or around March or April of 1996?
- 5 A. Correct.
- 6 Q. At this stage had you yourself spoken to Mr. Connolly?
- 7 A. No.
- 8 Q. So you arranged with Mr. Bailey that you would meet Mr.  
9 Gogarty in the Burlington Hotel?
- 10 A. Correct.
- 11 Q. Can you tell us the date of this meeting?
- 12 A. I can't be precise on it. I think it was late October or  
13 early November.
- 14 Q. Mr. Bailey places the meeting, from his best recollection,  
15 and he can not be precise either, at July or August of  
16 1996?
- 17 A. Yes. I am aware that Mr. Bailey said that. I think that  
18 the meeting was a little bit later. Maybe October or early  
19 November. Maybe October. Certainly I am of the opinion  
20 that it was, it was October time maybe, you know.
- 21 Q. Yes.
- 22 A. Later, definitely later than the summer. That is my  
23 recollection. But I stand corrected.
- 24 Q. Yes. At the time that you went to that meeting were you  
25 aware of the substance of the matters that Mr. Connolly had  
26 discussed with Mr. Reynolds?
- 27 A. I was, yes.
- 28 Q. Yes; and did you make the arrangement with Mr. Bailey, in  
29 other words, who was the organiser of the meeting?
- 30 A. Mr. Bailey.
- 31 Q. And did Mr. Bailey contact Mr. Gogarty?
- 32 A. Yes.

- 1 Q. You had no direct contact with Mr. Gogarty?
- 2 A. No.
- 3 Q. Can you remember what day of the week the meeting was?
- 4 A. No.
- 5 Q. What time the meeting was arranged for?
- 6 A. 6.00 or 7 o'clock time.
- 7 Q. Yes; and you attended the meeting; is that correct?
- 8 A. I did.
- 9 Q. Mr. Gogarty did not turn up to the meeting?
- 10 A. No, he didn't.
- 11 Q. Was Mr. Michael Bailey there?
- 12 A. He was.
- 13 Q. And Mr. Michael Bailey says his recollection is that he was
- 14 there for about an hour with you, waiting for Mr. Gogarty.
- 15 Does that accord with your recollection?
- 16 A. No, I would have said maybe half an hour or three quarters
- 17 of an hour. I won't dispute an hour.
- 18 Q. Yes. Can you tell me what you discussed with Mr. Bailey in
- 19 the course of that conversation?
- 20 A. Mr. Bailey told me that he had been, that he had been in
- 21 contact with Mr. Gogarty and Mr. Gogarty was anxious to
- 22 meet, I think my father more than me, and to sit down and
- 23 resolve our differences. I think I had explained to Mr.
- 24 Bailey on the phone that this was not a matter, I told him
- 25 that Mr. Gogarty wanted money from us. However, I did turn
- 26 up at the meeting, which Mr. Gogarty didn't attend.
- 27 Q. Yes; and you were there for 45 minutes or thereabouts with
- 28 Mr. Bailey?
- 29 A. Correct.
- 30 Q. And at this time you were aware from Mr. Frank Reynolds
- 31 that Mr. Frank Connolly had, or was in the process of
- 32 making certain inquiries in relation to an alleged payment

1 to a politician?

2 A. Correct.

3 Q. And I think at that stage Mr. Connolly had mentioned

4 earlier in his meeting with Mr. Reynolds, the name of Mr.

5 Ray Burke?

6 A. He did.

7 Q. And that from Mr. Connolly's understanding of the matter at

8 the time that he spoke to Mr. Reynolds, was that there was

9 an allegation that monies had been paid by JMSE to Mr. Ray

10 Burke?

11 A. Correct.

12 Q. Did you discuss any of these matters with Mr. Michael

13 Bailey when you met him in the Burlington Hotel, when you

14 met him late in 1996, no?

15 A. No. The conversation totally centred around Mr. Gogarty.

16 I think that I did most of the talking at it.

17 Q. Mr. Bailey has given evidence that he can not recollect at

18 all what was discussed during that meeting with you?

19 A. Has he? Yeah.

20 Q. Between the date of the arbitration, which I think was in

21 1992, did you have any contact between then and 1996 with

22 Mr. Michael Bailey?

23 A. No, I have only met him twice. Once was the arbitration

24 and the second time at the Burlington.

25 .

26 CHAIRMAN: Sorry, I didn't hear what the second time was?

27 A. Sorry Chairman, the second was at the meeting of the

28 Burlington.

29 .

30 CHAIRMAN: The second time was the meeting in the

31 Burlington, or the Berkley?

32 A. No, the Burlington Hotel, in either October or November.

1 The meeting that Mr. Gogarty didn't turn up.

2 .

3 CHAIRMAN: Sorry, that is where I was confused. Yes, I  
4 understand. You had arranged to go to a meeting with him  
5 but he didn't turn up?

6 A. That's correct, Sir.

7 .

8 CHAIRMAN: I beg your pardon. I was just slightly  
9 confused.

10 Q. MR. DILLON: Had any of these rumours surfaced in the  
11 newspapers at this stage, about a payment to a politician?

12 A. They had.

13 Q. And it was a matter that was rumbling in the papers at the  
14 time or had been for some months prior to that?

15 A. No, I think that initially it broke out in March, the end  
16 of March or April of 1996, and the whole issue had died  
17 down at that time.

18 Q. Yes, but you were aware from what Mr. Reynolds had told  
19 you, that Mr. Connolly had made certain inquiries in  
20 relation to the matter?

21 A. I was aware of that, yes.

22 Q. Did Mr. Reynolds mention to you that the name of Mr.  
23 Michael Bailey had been mentioned in connection with the  
24 payment to Mr. Burke?

25 A. No, I don't think so. I think that Mr. Connolly, from the  
26 conversation with Mr. Reynolds, just relayed to me the  
27 allegations he made about JMSE.

28 Q. In the course of this meeting did Mr. Michael Bailey raise  
29 the topic of any payment to Mr. Burke?

30 A. No.

31 Q. So can you tell me what you discussed for the 45 minutes  
32 that you were there?



1 A. I reiterated my previous two meetings with Mr. Gogarty in  
2 the Berkley Court Hotel. I probably expanded about them  
3 more than I have expanded here, and told him my opinion of  
4 Mr. Gogarty and that it was, that what he was after was  
5 more money. That I only reluctantly agreed to go to the  
6 meeting. But Mr. Bailey was insistent that the matter at  
7 that time, if it could be thrashed out, maybe settled with  
8 a handshake. I mean, you know, there were other issues  
9 discussed at the time. I think Mr. Bailey brought up  
10 horses and if I ever went racing such like things, which I  
11 don't do. I think there was a five or ten minute  
12 discussion about that. Mr. Bailey also had his wife  
13 present.

14 Q. Do you recollect, did Mr. Frank Reynolds ever mention to  
15 you anything about a joint venture allegation involving Mr.  
16 Michael Bailey or his companies?

17 A. No.

18 Q. Following his conversation with Mr. Connolly?

19 A. No.

20 Q. So in the course of this entire meeting nothing was  
21 mentioned about politicians, payments, or anything of that  
22 sort?

23 A. No. Mr. Gogarty, horses, and general conversation about  
24 the state of the economy, and that sort of thing.

25 Q. Did Mr. Bailey mention at all that he had been contacted  
26 also by Mr. Frank Connolly?

27 A. No.

28 Q. So as I understand the position, Mr. Connolly had been in  
29 touch at that stage with Mr. Frank Reynolds and had put  
30 certain matters to him. He had been in contact with Mr.  
31 Michael Bailey, there was some material in the newspapers,  
32 though not current as you say at that particular time, in

1       respect of a payment, and in the course of your 45-minute  
2       discussion with Mr. Michael Bailey, there was no reference  
3       made at all to any payment to Mr. Burke or any payment to  
4       any politicians, or any involvement of JMSE?

5       A. There was no mention of a payment to Ray Burke. His name  
6       did not come into the conversation. Mr. Connolly had  
7       contacted, or had a meeting in the JMSE offices sometime in  
8       March. The issue had died down, as far as I was concerned,  
9       in the newspapers, and I wasn't aware that Mr. Connolly had  
10      been in touch with Mr. Bailey. He certainly didn't tell me  
11      that.

12     Q. Sorry, one moment, Mr. Murphy. Mr. Michael Bailey as we  
13      know, and as Mr. Michael Bailey has said, he attended at a  
14      meeting in the house of Mr. Ray Burke with Mr. Gogarty, at  
15      which a sum of money was paid to Mr. Ray Burke?

16     A. Correct.

17     Q. Yes; and you were, at this stage, the Chairman of the  
18      company who, according to Mr. Michael Bailey's evidence,  
19      had given the money to Mr. Burke?

20     A. This time in '90?

21     Q. '96?

22     A. Correct.

23     Q. And this was an unusual occurrence, according to Mr.  
24      Michael Bailey's evidence, that a payment of this sort, of  
25      this size was unusual. The amount was unusual?

26     A. I was not aware at that time that JMSE had paid over money  
27      to Mr. Ray Burke. As I said, his name never came up in  
28      that conversation.

29     Q. Yes. When Mr. Frank Connolly contacted Mr. Reynolds in  
30      sometime in or around March or April of 1996?

31     A. March.

32     Q. March of 1996, Mr. Reynolds got in contact with you; is

1           that correct?

2           A. He did.

3           Q. And what did he tell you that Mr. Connolly had said?

4           A. I think a lot of the issues at that time, discussed with  
5           Mr. Connolly concerned the type of work we did. I think  
6           that one of Mr. Connolly's first articles was about our  
7           supply of steel to the nuclear industry. I think there was  
8           a big discussion about that. Frank Reynolds told me that  
9           he actually gave him some brochures which showed those  
10          nuclear plants on company brochures, and that we had  
11          nothing to hide about it. I think there was a lot of  
12          discussion about that. This was what was relayed to me by  
13          Mr. Reynolds. He said that he asked him about payment to  
14          politicians and mentioned Ray Burke. Did JMSE ever give  
15          Ray Burke money?

16          Q. And following that conversation, did you initiate any  
17          investigations or inquiries to establish whether or not Mr.  
18          Ray Burke, or any politicians had been paid money by JMSE?

19          A. I think I may have rung my father and asked Frank Reynolds,  
20          yes.

21          Q. Did you contact anybody else at that time?

22          A. No.

23          Q. You did?

24          A. I didn't. As I say, I didn't place too much credence on  
25          the article at the time. At the time the article didn't  
26          specify who, but specified that the money was for planning,  
27          and as the lands under the subject of this Tribunal were  
28          sold by us for agricultural prices, it didn't concern me.

29          Q. Mr. Connolly has given evidence that the primary purpose of  
30          his meeting with Mr. Reynolds was in relation to the  
31          allegation by Mr. Gogarty that money had been paid to Mr.  
32          Ray Burke?

1 A. It may well have been. He brought up the other issue as  
2 well, because --

3 .

4 MR. COONEY: I wonder would Ms. Dillon give us the  
5 reference in this transcript, where this is recorded?

6 .

7 MR. DILLON: It is Day 51 and it is page 45, question 45 I  
8 think or thereabouts. It might be question 53. But in any  
9 event I will come back to the transcript in relation to  
10 that Mr. Murphy. I think that Mr. Reynolds produced a  
11 great deal of documentation to Mr. Connolly in relation to  
12 Mr. James Gogarty at the meeting?

13 A. He may well have.

14 Q. And that the matters that they were discussing were Mr.  
15 Gogarty and his relationship with, one of the matters they  
16 were discussing was Mr. Gogarty and the relationship of his  
17 complaints against JMSE and then Mr. Gogarty and his  
18 allegations, and in addition what the company was involved  
19 in.

20 .

21 MR. COONEY: Mr. Chairman, I don't want to intervene  
22 unnecessarily. How can this witness give evidence about  
23 what occurred at a meeting that he wasn't at? Now, he may  
24 be asked if he was told subsequently, but that is a  
25 different matter, but the way Ms. Dillon is putting the  
26 question is that he should know what happened there. I  
27 don't think --

28 .

29 MR. DILLON: I agree with Mr. Cooney, Sir.

30 .

31 CHAIRMAN: I was about to intervene on exactly the same  
32 point. Ms. Dillon, we will be calling Mr. Reynolds. Now I

1 can well understand that you are inquiring into what  
2 conversation took place between Mr. Bailey and this  
3 witness, who was the person present -- I think you must  
4 confine yourself to what Mr. Bailey and he said.

5 .  
6 I don't think you can, that you can premises it "did he not  
7 discuss" and whatever his answer is. Whatever it may be we  
8 are more or less bound by it until Mr. Reynolds comes into  
9 the scene. I don't, I am reluctant to ever intervene with  
10 counsel, but I think we are now, I might suggest that we

11 --

12 .

13 MR. DILLON: I accept Mr. Cooney's request. I will  
14 rephrase the question. I simply want to ask this witness  
15 what Frank Reynolds told this witness following the  
16 interview with Mr. Frank Connolly. I will take it in that  
17 way.

18 .

19 Q. Mr. Murphy, in your discussion with Mr. Frank Reynolds  
20 following his contact with Mr. Frank Connolly, can you  
21 outline to us what Mr. Reynolds conveyed to you had  
22 transpired at that meeting?

23 A. I am going from memory Ms. Dillon. The two things that  
24 Mr. Connolly and Mr. Reynolds may well have engaged in  
25 detailed documentation about Mr. Gogarty, but the two  
26 things that stand out in my memory were obviously the two  
27 articles that he subsequently wrote, which was about  
28 supplying the steel to the nuclear industry, and this  
29 alleged payment or this payment to politicians. There may  
30 well have been other issues discussed in detail, but I  
31 think as the Chairman has said Mr. Reynolds would be in a  
32 better position to deal with them than me.

1

CHAIRMAN: Mr. Murphy, am I to understand, I am not in any  
anyway trying to trap you, I just want to understand what  
you are saying. That the conversation that you had or this  
occasion with Mr. Bailey did not touch, simply was -- I  
beg your pardon. Simply was in relation to the settlement  
or, I can't think of a better word at the moment, of any  
discord between JMSE/your family and Mr. Gogarty, was that  
the purpose? That was the purpose of the meeting and was  
that the subject of the discussions which you had with him  
in the three quarters of an hour?

12 A. You are referring to the meeting with Mr. Bailey in the  
13 Burlington, Sir?

14

15 CHAIRMAN: Yes, I am.

16 A. Yes. You are correct.

17

CHAIRMAN: And you say that you did not touch, or have I  
got it wrong, that you did not touch on the articles  
written about your firm in a newspaper?

21 A. We may well have in the Sellafield thing, I think I brought  
22 up about the article about the Sellafield thing, but  
23 certainly never touched on the Ray Burke issue whatsoever.  
24 It was the grievances with Gogarty. The purpose of the  
25 meeting that Mr. Bailey set up was to try and resolve the  
26 differences between the Murphys and Mr. Gogarty.

27

CHAIRMAN: And was your response to that, that to  
illustrate the problem that was common was that he had,  
Gogarty had gone on to go public in relation to matters  
relating to your firm?

32 A. I think - No Sir, I think that the majority of my

1 conversation with Mr. Bailey then related to the two  
2 meetings that I had with Mr. Gogarty in the Berkley Court.

3 .

4 CHAIRMAN: Are you saying that at this - did you not go  
5 on, I am only inquiring now, I am not in anyway  
6 cross-examining you. I just want to inquire. You say as  
7 you understand, you did not deal with anything other than  
8 those two meetings, and the situation that existed  
9 consequent upon those two meetings in the Berkley Court?

10 A. That's correct, Sir.

11 .

12 CHAIRMAN: That's all right. I just want to understand  
13 what you are saying. I beg your pardon Ms. Dillon.

14 Q. MR. DILLON: Did Mr. Bailey give you any reason why he was  
15 brokering this arrangement or this meeting between yourself  
16 and Mr. Gogarty?

17 A. No.

18 Q. Did you think it was unusual that someone you had met once  
19 previously in 1992 would ring you in August of 1996 or at  
20 the end of 1996 to arrange such a meeting?

21 A. No.

22 Q. You didn't think that was unusual?

23 A. No.

24 Q. In the light of your own experiences with Mr. Gogarty in  
25 the Berkley Court in February of 1992, and the lack of  
26 contact between yourself and Mr. Gogarty in the intervening  
27 period, why did you agree to go to the meeting?

28 A. As I said earlier on, I agreed reluctantly.

29 Q. I know that you agreed reluctantly, but why did you agree,  
30 albeit reluctantly?

31 A. Because, as I say, the articles had appeared, albeit  
32 briefly in the March/April time earlier on that year. Mr.

1 Gogarty - and I don't wish to repeat the conversations I  
2 had with him, I think that you know he said he would hound  
3 us until the day he died. If there was any possibility  
4 that we could shake hands and he could walk away and we  
5 could walk away, fine.

6 Q. Did Mr. Bailey, at that meeting, suggest the payment of any  
7 monies to Mr. Gogarty?

8 A. No.

9 .

10 CHAIRMAN: Again, may I intervene and I do so for the last  
11 time. The reason I do it is you have, you are just after  
12 saying that one of the reasons you went to the meeting or  
13 that one, was the articles that had been published. What I  
14 am asking you now, and I am perfectly openly asking you if  
15 that was the situation, do you say that you didn't refer to  
16 those articles with Mr. Bailey?

17 A. No, I didn't refer to the articles.

18 .

19 CHAIRMAN: Notwithstanding they being part of the  
20 motivation for going to the meeting?

21 A. Well again, Sir, I reiterated what Mr. Gogarty had said to  
22 me, especially at the second of those two meetings, I don't  
23 wish to go into it again.

24 .

25 CHAIRMAN: Don't let's repeat that all over again. What I  
26 am looking at is your statement, not the phrase you used  
27 that one of the motivations, or one of the reasons why you  
28 accepted the invitation from this man from whom, whom you  
29 had only met once?

30 A. Correct.

31 .

32 CHAIRMAN: 18 months previous; that you had regard to the



1 fact that these articles had been published; that is why I  
2 want to know what the relationship was between that and Mr.  
3 Bailey?

4 A. Mr. Bailey had made contact with me, as I said. As I said  
5 earlier, Mr. Gogarty had already, or somebody on his behalf  
6 had gone to the Revenue Commissioners. Obviously Mr.  
7 Gogarty was the source behind these articles, and I agreed  
8 to go to the meeting as I say, albeit reluctantly, because  
9 Mr. Bailey informed me that the dispute between Mr. Gogarty  
10 and the Murphys may be sorted out with a handshake and if  
11 there was any possibility of that, then fine.

12 .

13 CHAIRMAN: I see. Thank you.

14 A. Thank you Sir.

15 Q. MR. DILLON: Now, did you ask Mr. Bailey at all in the  
16 course of this meeting, "look Mr. Bailey, you know, what is  
17 your involvement in this"?

18 A. No.

19 Q. Did you have any curiosity at all about why this person  
20 that you had met for the first time some three and a half  
21 years before, that was effecting a reconciliation between  
22 yourself and Mr. Gogarty?

23 A. No, I got the impression that Mr. Bailey and Mr. Gogarty  
24 were in contact. As I said, and if there was any chance of  
25 a sit down and shake hands with Mr. Gogarty, fine, I was  
26 willing to give that a chance. The issue had died down at  
27 the time, I think initially, initial articles were earlier  
28 on in the year, and the whole issue had died down.

29 Q. Yes. Did you fly over particularly for the meeting?

30 A. No. I think I was in Ireland anyway, I think I was coming  
31 to Ireland anyway.

32 Q. Did you get the impression that Mr. Bailey was acting on

1           behalf of Mr. Gogarty in arranging this meeting?

2           A. No, he was - I got the impression he was acting as a  
3           go-between.

4           Q. Do I understand that to mean that Mr. Bailey was acting on  
5           his own behalf?

6           A. No, I think that Mr. Bailey gave me the impression that he  
7           had been in contact, or contacts, with Mr. Gogarty and that  
8           Mr. Gogarty wanted to, I think it was my father more than  
9           myself he expressed a desire to meet, and he, Mr. Bailey,  
10          said he would organise it.

11          Q. Did you discuss the North Dublin lands with Mr. Bailey in  
12          the course of this conversation?

13          A. No.

14          Q. Did you ask Mr. Bailey how did he develop any of the lands,  
15          how things were getting on with him?

16          A. No.

17          Q. You never mentioned the North Dublin lands?

18          A. No.

19          Q. Did you discuss anything to do with any of his building  
20          companies or matters of that sort?

21          A. No.

22          Q. Did you discuss anything to do with politics in the course  
23          of that meeting?

24          A. No.

25          Q. Did you discuss anything to do with sport in the course of  
26          that meeting?

27          A. Horses.

28          Q. Horses. And your clear recollection is that for the 45  
29          minutes this meeting took place or thereabouts, in the  
30          hotel, you spoke about an article in the newspapers  
31          concerning Sizewell that had been published in connection  
32          with your firm and also that you discussed horses?

1 A. Ms. Dillon, it is taken a little bit out of context there.  
2 .  
3 MR. COONEY: It is a very unfair summary. I wonder why  
4 does Ms. Dillon summarise evidence and leave out things?  
5 .  
6 CHAIRMAN: Just a moment, I want to read this text.  
7 "Horses" "your clear recollection", "article in  
8 newspaper". Sorry --  
9 .  
10 You were about to say "Ms. Dillon has taken out of context"  
11 Mr. Cooney has a point, that we are going to horses and  
12 that sort of commentary; how do you say it was taken out of  
13 context?  
14 .  
15 MR. DILLON: Sorry Sir?  
16 .  
17 CHAIRMAN: You said, you are on the screen here, "it is  
18 taken a little out of context" it is just before Mr. Cooney  
19 intervened.  
20 Q. MR. DILLON: That was the witness replying, that what I  
21 was suggesting was out of context. He didn't get to finish  
22 when Mr. Cooney interrupted. That is not a comment by me,  
23 that is Mr. Murphy, I think.  
24 .  
25 CHAIRMAN: I beg your pardon.  
26 .  
27 MR. COONEY: Mr. Chairman, I don't think, first all that  
28 Ms. Dillon should be summarising a witness's evidence after  
29 he has given a series of answers to a series of questions;  
30 but if she does Mr. Chairman, and if you think it is  
31 permissible that she should do that, contrary to what I am  
32 submitting to you, then the summary must be fair and full

1 and reflect everything that the witness has previously  
2 said.

3 .

4 MS. DILLON: I am not acting unfairly but I will put the  
5 series of questions again to the witness.

6 .

7 CHAIRMAN: Perhaps you will put the series of questions.

8 You were inquiring about his indication about his; that he  
9 was talking about horses, then you say that your meeting  
10 was about other matters about - perhaps put it that way.

11 .

12 MR. DILLON: Yes.

13 .

14 MR. COONEY: Mr. Murphy has already answered a large  
15 number of questions about this meeting with Mr. Bailey. He  
16 has given a considerable amount of information. Now, if  
17 you believe it is correct for your counsel to come back on  
18 this and to summarise it, Mr. Chairman, that that is proper  
19 procedure.

20 .

21 CHAIRMAN: She is perfectly entitled to summarise if it is  
22 going to found another question. Of course she is.

23 .

24 MR. COONEY: Yes, but the summary must be full.

25 .

26 CHAIRMAN: I accept you are correct in that. Now Ms.  
27 Dillon, perhaps for the basis of the question you are going  
28 to ask, the summary must be reasonable.

29 .

30 MR. DILLON: Yes.

31 .

32 CHAIRMAN: If it is to form the basis of a question.

1 Q. MR. DILLON: Yes. If you would just outline for me again  
2 Mr. Murphy, the matters that you discussed with Mr. Michael  
3 Bailey on the occasion of your meeting at the end of 1996  
4 in the Burlington Hotel?

5 A. We discussed Mr. Gogarty in great detail, in terms of my  
6 two meetings in the Berkley Court. There was a general  
7 conversation as well, he calling me such like things. I  
8 think this horses is taken out of context. I have no  
9 interest in horses as Mr. Bailey was suggesting that, you  
10 know, that it was something to get into and it is very  
11 enjoyable, such like things; a general conversation. That  
12 would be a fair summary.

13 Q. Yes. So I just want to be clear about this and I want to  
14 be fair to you; so if I can I don't want to face another  
15 allegation that I am treating you unfairly. The matters  
16 that you discussed were Mr. Gogarty?

17 A. Correct.

18 Q. And in the course of your discussions about Mr. Gogarty no  
19 reference was made by Mr. Bailey to the payment to Mr. Ray  
20 Burke by Mr. Gogarty?

21 A. Correct.

22 Q. You discussed horses to some degree but that was mainly Mr.  
23 Bailey's interest and not yours?

24 A. Correct.

25 Q. And then it was a general conversation?

26 A. Correct.

27 Q. Right. Now, the matters you did not discuss, as I  
28 understand it and weren't raised at all in the course of  
29 the conversation, sorry I think you had mentioned earlier  
30 on that had you had some, you might have mentioned the  
31 Sizewell newspaper article?

32 A. I may have mentioned, but I am in one hundred percent

1       sure. In the context, as I say I don't want to go into the  
2       detail again. We know the three things I said earlier on  
3       that Mr. Gogarty, this said about the various things, and I  
4       said "sure he has gone about the Sizewell steel" or  
5       something like that. I mean it was just in a general  
6       sense.

7       Q. Yes, but the thing that were not discussed at that meeting  
8       are now the things that I want to now put to you, if that  
9       is fair enough?

10      A. Fair enough.

11      Q. You didn't have any discussion about politic?

12      A. No.

13      Q. Apart from the horses you had no discussion about sport?

14      A. We may well have touched on football or something, I mean I  
15      can't be precise.

16      Q. Maybe. Did you not discuss anything to do with payments to  
17      politicians, whether they be corrupt payments or political  
18      contributions?

19      A. No.

20      Q. And other than a general discussion about Mr. Gogarty, no  
21      reference was made by Mr. Bailey to a payment to Mr. Ray  
22      Burke?

23      A. Correct.

24      Q. You did not discuss anything to do with the development of  
25      the lands that Mr. Bailey had purchased from your company?

26      A. I did not.

27      Q. Did Mr. Bailey?

28      A. No.

29      Q. Did Mr. Bailey make any inquiry, or did you both discuss  
30      how your companies were doing in Ireland, business matters?

31      A. Maybe in a general sense. As I say, general economy, he  
32      might have said "how are you getting on". I have no

1 recollection of, recollection of him being specifics. But  
2 it may well have been in that conversation in a general  
3 sense. I think it was the economy in general.

4 Q. Yes. Did either of you discuss or raise the question of  
5 Mr. Frank Connolly?

6 A. No.

7 Q. Thank you Mr. Murphy.

8 I want to move on now to deal with the meetings that Mr.  
9 Connolly, the contact Mr. Connolly had with you directly,  
10 and prior to that the contact that Mr. Connolly had with  
11 Mr. Frank Reynolds. If that is all right?

12 A. That's fine.

13 Q. Now, as I understand it in March of 1996 Mr. Connolly went  
14 to see Mr. Reynolds in Santry?

15 A. Correct.

16 Q. He had initiated this contact and I don't think this was  
17 disputed in cross-examination. He had initiated this  
18 contact first of all, by way of telephone and had been put  
19 on to Mr. James Morrissey who was apparently a PR person  
20 who works on behalf of your company?

21 A. That may well have been the case, yes.

22 Q. And Mr. Morrissey, in turn, put him on to Mr. Frank  
23 Reynolds?

24 A. That may well have been the case.

25 Q. And he met Mr. Frank Reynolds early in 1996, sometime  
26 around March or April of 1996?

27 A. March.

28 Q. March. In Santry?

29 A. Correct.

30 Q. And he had a lengthy meeting with Mr. Reynolds in the  
31 boardroom, or what he felt was a boardroom, in the premises  
32 at Santry?

1 A. Correct, yes.

2 .

3 MR. COONEY: How can the witness know these things Mr.  
4 Chairman, he wasn't there? I mean they may have been  
5 reported to him by Mr. Reynolds subsequently, but I mean  
6 really this is a horrendous waste of time Mr. Chairman,  
7 with respect.

8 .

9 MR. DILLON: I put to this witness Sir, if I could just  
10 say something --

11 .

12 CHAIRMAN: Carry on as you are.

13 .

14 MR. DILLON: Very good.

15 .

16 MR. COONEY: I thought you had ruled in favour of that  
17 indication Mr. Chairman.

18 Q. MR. DILLON: It is this witness who has narrowed down the  
19 date. Mr. Connolly's evidence on Day 51 was that that  
20 meeting was in March or April 1996. This witness is able  
21 to categorically state that the meeting was in March.

22 A. I can Ms. Dillon, because it was before the first article  
23 was written on the 31st of March.

24 Q. Now Mr. Murphy, following this meeting in Santry, between  
25 Mr. Reynolds and Mr. Connolly, did Mr. Reynolds get in  
26 touch with you?

27 A. He did.

28 Q. And can you recollect when he got in touch with you?

29 A. It would have been either that afternoon or even the next  
30 day. It would have been shortly after, because I can't pin  
31 down exactly when, but it would have been shortly  
32 afterwards.



- 1 Q. Mr. Connolly gave evidence that in the course of that  
2 meeting he had mentioned or told Mr. Frank Reynolds that  
3 these allegations of payments to Mr. Burke --.
- 4 A. Correct.
- 5 Q. And Mr. Reynolds when he spoke to you, I am sorry I should  
6 have said that that payment was from JMSE?
- 7 A. Correct, yes.
- 8 Q. And when Mr. Reynolds contacted you in March of 1996 to  
9 tell you about the telephone conversation with Mr.  
10 Connolly, in his account of that conversation with Mr.  
11 Connolly did he tell you what had been said about Mr. Ray  
12 Burke?
- 13 A. He did.
- 14 Q. And can you tell me now what your recollection is of what  
15 Mr. Reynolds said to you in that telephone conversation?
- 16 A. From memory, he said that he asked if JMSE had ever made  
17 any payments to Mr. Ray Burke.
- 18 Q. Had ever made any payments to Mr. Ray Burke?
- 19 A. Yes.
- 20 Q. And what was your response to that?
- 21 A. He didn't ask me, he asked Mr. Reynolds.
- 22 Q. Sorry, I misunderstood; but Mr. Reynolds told you that Mr.  
23 Connolly had asked that question?
- 24 A. Oh, yes.
- 25 Q. And did Mr. Reynolds indicate to you what his reply to Mr.  
26 Connolly had been?
- 27 A. He did.
- 28 Q. And what was that?
- 29 A. No.
- 30 Q. JMSE had not made any payments to Mr. Ray Burke?
- 31 A. Correct.
- 32 Q. And when Mr. Reynolds rang you to discuss this matter with

1           you, what was your reaction?

2       A. My reaction was, you know, this is Gogarty behind this,  
3           this is more hassle from him. I said, I asked him if he  
4           knew anything about it and he said "absolutely not".

5       Q. You asked Mr. Frank Reynolds if he knew anything about it?

6       A. If he knew anything about a payment to Ray Burke and he  
7           said "no".

8       Q. And he said he didn't. And you didn't know anything I  
9           think, is that what you are saying, either, about a payment  
10          to Mr. Ray Burke?

11      A. No, I didn't know there was a payment made to Mr. Burke at  
12          the time.

13      Q. Were you concerned at all when you had this conversation  
14          with Mr. Reynolds?

15      A. A little concerned, yes.

16      Q. Why were you concerned?

17      A. Because, obviously it was, the article was published in a  
18          newspaper in the Business Post shortly afterwards.  
19          Although nobody had been identified, we obviously could  
20          read through the lines because of Mr. Connolly's visit, but  
21          as I said the thing died down, went away as far as I was  
22          concerned.

23      Q. Was it a matter, did you form the view when Mr. Reynolds  
24          rang that Mr. Gogarty was behind this?

25      A. He was behind the allegations made to Mr. Connolly.

26      Q. And did you immediately set about satisfying yourself that  
27          there was no truth in these allegations?

28      A. I think I had a conversation, I think I had a conversation  
29          with my father and I had a conversation with Frank Reynolds  
30          and as I say, the thing died down, so we left it at that.

31      Q. When did you have your conversation with your father?

32      A. Sometime after that, I mean I can't be precise. I would

1        have rung him and said that this article was on the  
2        newspaper, you know? Do you know anything about it? I  
3        mean, I think we dismissed it because the article itself  
4        said it was for planning, and to me it was absolutely  
5        ridiculous, because we had sold the lands for agricultural  
6        prices. Why would we be paying somebody an alleged bribe  
7        when we were selling the lands?

8        Q. Were you able to read between the lines of the article  
9        which didn't name your company directly to realise that  
10       your company was the company that was being identified?

11      A. Of course.

12      Q. So you knew in that article at the end of March of 1996  
13      that that was about your company?

14      A. I did.

15      Q. And that the allegation involved an improper payment?

16      A. Of course, yes.

17      Q. And that it was in connection with planning?

18      A. Correct.

19      Q. Right. Now, with those three pieces of information that  
20      you, because of your particular knowledge of the way the  
21      article was written, you could identify that it was your  
22      company?

23      A. Of course.

24      Q. Yes. So did you set about seeking to establish, at that  
25      stage, whether there was a germ of truth in what was being  
26      said in the article?

27      A. As I said, I spoke to Frank Reynolds and my father. I  
28      think there may have been one more article. It died down.  
29      That's it.

30      Q. Did you know that Mr. Ray Burke was the politician referred  
31      to in the article, even though he hadn't been named?

32      A. Of course.

1 Q. And you knew that as a result of your conversation with Mr.  
2 Reynolds and Mr. Reynolds knew that as a result of his  
3 conversation with Mr. Connolly?

4 A. Yes.

5 Q. Is that the sequence?

6 A. Correct.

7 Q. So that you knew, so that you knew in March of 1996 that  
8 there was an allegation that money had been paid by your  
9 company to Mr. Ray Burke for planning purposes?

10 A. Correct.

11 Q. And you spoke to your father about this?

12 A. I did.

13 Q. And you spoke to Mr. Frank Reynolds about this?

14 A. I did.

15 Q. And both of them reassured you that there was no truth in  
16 this allegation?

17 A. They knew nothing about this, yes.

18 Q. They knew nothing about this?

19 A. I mean the suggestion to me at that time seemed absolutely  
20 ridiculous, to pay money for planning on lands that we were  
21 selling or had sold.

22 Q. Yes. Albeit the suggestion might have been ridiculous,  
23 nonetheless the suggestion was there?

24 A. Yes.

25 Q. And it was a matter that would warrant investigation by the  
26 company to establish the truth or the falsity of the  
27 allegations?

28 A. As I said earlier, I inquired from my father and I inquired  
29 from Mr. Reynolds.

30 Q. Did you speak to Mr. Roger Copsey at all about the matter?

31 A. Not at that time.

32 Q. The allegation was an allegation that money had been paid

- 1 to Mr. Burke; isn't that correct?
- 2 A. Correct.
- 3 Q. And a significant sum of money?
- 4 A. Correct.
- 5 Q. And the person who was the Financial Controller of the
- 6 company at the time that this payment was alleged to have
- 7 been made was Mr. Roger Copsey?
- 8 A. Correct.
- 9 Q. And therefore it would be Mr. Roger Copsey's responsibility
- 10 to deal with the treatment of funds in and out of the
- 11 accounts, reconciliations, credit ledgers, debits, all of
- 12 that sort of matters?
- 13 A. I don't -- Mr. Copsey wasn't there on a day-to-day basis.
- 14 I think that he had one of his accountants up there on a
- 15 day-to-day basis. As I say, Ms. Dillon, I dismissed it.
- 16 The article had said that money was paid for planning. I
- 17 dismissed it. I only checked with Frank Reynolds and my
- 18 father. The lands were sold for agricultural prices. I
- 19 knew Mr. Gogarty was behind it and I left it at that.
- 20 Q. Yes. Mr. Tim O'Keeffe, I think, was the person from Mr.
- 21 Copsey's office who was working in JMSE in 1989?
- 22 A. Correct.
- 23 Q. And did you make any inquiry from Mr. O'Keeffe about monies
- 24 or funds passing through the accounts in June of 1989?
- 25 A. No.
- 26 Q. Did you make any inquiry as to the financial records of the
- 27 company from either Mr. O'Keeffe or Mr. Copsey?
- 28 A. No.
- 29 Q. In relation to transactions in June of 1989?
- 30 A. No.
- 31 Q. Other than a verbal inquiry to your father and a verbal
- 32 inquiry to Mr. Frank Reynolds, did you conduct any further

1 inquiry at that time?

2 A. No.

3 Q. I think we should put up on the screen, the article. Could  
4 we possibly show the date of that article, if that is  
5 possible? As the 31st of March -- can you see that Mr.  
6 Murphy?

7 A. I can.

8 Q. Because it is not great. Maybe I am just, it is the 31st  
9 of March of 1996. The Sunday Business Post. And when you  
10 read this article, you were able to identify that the  
11 company referred to here was JMSE?

12 A. Correct.

13 Q. Right. So I wonder would you just mind bearing with me for  
14 a minute Mr. Murphy, until I get a hard copy of this, if it  
15 is possible, because I can't read it. I don't know whether  
16 you can read it? Okay. The article says as follows:

17 .

18 "A senior Fianna Fail politician has been accused of  
19 receiving payments from property developers in Dublin in  
20 return for securing" -- would you prefer a hard copy Mr.  
21 Murphy?

22 A. Okay, please, yes.

23 Q. You are like myself.

24 .

25 CHAIRMAN: Well, in those circumstances I gather we  
26 haven't got one in the premises, we have to take it down.

27 .

28 MR. DILLON: We have it, Sir. We found it, yes.

29 .

30 CHAIRMAN: I beg your pardon. (Document handed to  
31 witness).

32 Q. MR. DILLON: If we just photocopy that, Mr. Murphy, and we

1 can --

2 .

3 CHAIRMAN: It will just take a moment Mr. Murphy, to  
4 photocopy it.

5 Q. MS. DILLON: Would you mind, Mr. Murphy, would you mind  
6 working from the screen? I can work from the screen now?

7 A. It is okay, I will work from the screen, it is okay.

8 Q. Because the copier has broken down.

9 A. That's fine.

10 Q. This is the article of the Sunday Business Post of the 31st  
11 of March, 1996. And it is headed: "Fianna Fail Politician  
12 Paid Off By Developers. Senior politician and ex  
13 Councillor got more than £50,000 each. By Frank  
14 Connolly".

15 .

16 "A senior Fianna Fail politician has been accused of  
17 receiving payments from property developers in Dublin in  
18 return for securing planning permissions for housing.

19 .

20 The serving TD has been named by two individuals who  
21 separately contacted the firm of Newry solicitors which  
22 last year offered a reward for information on planning  
23 corruption.

24 .

25 One allegation which is detailed in a lengthy affidavit in  
26 the possession of the Sunday Business Post claims that the  
27 senior politician and former councillor received two  
28 separate payments of more than £50,000 each during 1986  
29 from individuals acting on behalf of a city developer.

30 .

31 Another individual has claimed to the Newry solicitors,  
32 Donnelly Neary Donnelly, that in 1989 he personally gave

1 the politician, who was also a local councillor, cash in  
2 cheques worth of £40,000 on one occasion and was present  
3 when a property developer handed over an equivalent  
4 amount. The money was in return for the promised rezoning  
5 of almost 1,000 acres of land and was to cover payments for  
6 a number of named councillors who would support specific  
7 rezoning motions.

8 .

9 This man has also made serious allegations against a  
10 representative of his former employers, whom he claims made  
11 threatening phone calls to his North Dublin home".

12 .

13 I presume that this was one of the matters that would have  
14 identified Mr. Gogarty as the source of the information,  
15 that last piece that I have read?

16 A. Correct.

17 Q. Yes. "He claims that the Gardai subsequently interviewed  
18 the caller who admitted making the threatening phone  
19 calls. However, no file was sent to the DPP by the  
20 investigating Gardai and the caller was never charged with  
21 any offence.

22 .

23 Despite repeated Dail questions by Labour Deputy, Tommy  
24 Broughan, Nora Owen, Minister for Justice, has failure to  
25 explain the failure to prosecute. According to Donnelly  
26 Neary --

27 A. This is going haywire now.

28 Q. Are you lost?

29 A. It has gone a bit askew.

30 Q. I think Peter, you can shrink it? I am the one who is  
31 blind. We will reduce it. That was being done for my  
32 benefit Mr. Murphy. Are you all right?



1 A. Yes, I don't mind the small print. I can read it.

2 Q. That's grand.

3 "Despite repeated Dail questions by Labour Deputy, Tommy  
4 Broughan, Nora Owen, Minister for Justice has failed to  
5 explain the failure to prosecute. According to Kevin Neary  
6 of solicitors Donnelly Neary Donnelly his question request  
7 to Owen to investigate the matter fully has met with only  
8 acknowledgments from the Department of Justice".

9 .

10 It goes on: "Our client felt that he had been the subject  
11 of threats and intimidation from representative of his  
12 former employer. He believed that the conduct of the  
13 individual who had made the phone calls in question should  
14 have resulted in a criminal prosecution, but despite his  
15 requests for a prosecution the matter was not pursued.

16 .

17 We would now ask the Minister for Justice to reply fully to  
18 our correspondence in this matter. Our client feels that  
19 the manner in which this case had been dealt with by An  
20 Garda Siochana raises important questions regarding the  
21 administration of justice Neary said.

22 .

23 The client also claimed that gunshots were fired through  
24 the front window of his North Dublin causing £2,000 in  
25 damage and that family cars were damaged. No arrests were  
26 ever made. The threats and intimidation followed court  
27 proceedings during which he alleged fraud, corruption and  
28 breaches of the Finance Act against his former employers.

29 .

30 A Garda team is investigating seven files received by the  
31 Newry solicitors which allege planning corruption. These  
32 do not include the planning corruption made against senior

1 politicians"

2 .

3 Now insofar as the article is concerned, you knew when you  
4 read this article that there was an allegation that £40,000  
5 had been paid to a senior politician?

6 A. I did.

7 Q. And you knew that the politician in question was Mr. Ray  
8 Burke?

9 A. Correct.

10 Q. And you knew that the allegation was that this money was  
11 supposed to have come from JMSE?

12 A. Correct.

13 Q. And other than a verbal inquiry to Mr. Reynolds and an  
14 inquiry to your father, did you at that time, conduct any  
15 investigations to establish the truth or falsity of the  
16 allegations?

17 A. No, because apart from the first piece of the article which  
18 obviously refers to somebody else, I dismissed all the rest  
19 of it, I just dismissed it. I mean he was obviously, shots  
20 and everything, the threats -- I dismissed it as lies.

21 Q. Yes; and when you met Mr. Michael Bailey in August or July  
22 or October of 1986, whenever that meeting was in 1996,?

23 A. It was definitely late in July, later than July, it was  
24 about October.

25 Q. Whenever Mr. Bailey says July or August you say probably  
26 about October; and whenever you met Mr. Bailey it was after  
27 the publication of this article?

28 A. Correct, yes.

29 Q. And Mr. Bailey was bringing you and Mr. Gogarty together in  
30 an effort to resolve your difficulties?

31 A. Correct.

32 Q. And you were aware when you met Mr. Bailey, that Mr.

1 Gogarty was making these allegations about your company?

2 A. That he had made them and the article had been written back  
3 on the 31st of March, yes.

4 Q. And did you consider at all mentioning to Mr. Bailey or  
5 asking; sorry, mentioning to Mr. Bailey or asking him to do  
6 anything about this?

7 A. No.

8 Q. No. All right. I am moving on to something else now,  
9 Sir.

10 .

11 CHAIRMAN: Well, in those circumstances I think we will  
12 break for lunch. It is just three minutes to one.

13 .

14 MR. DILLON: There is a separate witness being taken. I  
15 am not sure whether it was arranged that the witness would  
16 be taken at two o'clock or --

17 .

18 CHAIRMAN: A quarter past.

19 .

20 MR. DILLON: Or whether the witness would be taken at  
21 2.15.

22 .

23 MR. COONEY: He can be taken at whatever time is  
24 convenient to you.

25 .

26 CHAIRMAN: Do you know is he available?

27 .

28 MR. COONEY: Yes, he is.

29 .

30 CHAIRMAN: Well, I am quite happy. It is just two or five  
31 past two or thereabouts, if that is convenient to  
32 everybody.

1 .

2 MR. COONEY: Yes.

3 .

4 CHAIRMAN: Then we are back to normal operations at 2:15.

5 .

6 THE HEARING THEN ADJOURNED FOR LUNCH

7 .

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9 .

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1

THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:

3

MS. COGHLAN: Father Michael Rigney

5

FATHER MICHAEL RIGNEY, HAVING BEEN SWORN WAS, EXAMINED AS  
FOLLOWS BY MS. COGHLAN:

8

9 Q. MS. COGHLAN: Good afternoon Father?

10 A. Good afternoon.

11 Q. I believe, Father, you prepared a statement for this

12 Tribunal in relation to particular events in 1989?

13 A. Yes.

14 Q. If a copy of your statement can be just handed to you.

15 A. Thank you.

16 Q. And you can let me know if that's the statement you

17 prepared. (Document handed to witness).

18 A. Yes, that is correct.

19 Q. Right. I believe you know the Murphys since the 1970s?

20 A. Yes.

21 Q. And you would know Joseph Murphy Jnr. from --

22 A. Yes, I do.

23 Q. -- from obviously that period?

24 A. Since he was in primary school, yes.

25 Q. You have known him all his life, and his sister Angela, and

26 his father?

27 A. Joe, yes.

28 Q. Indeed. And just in relation to the event in 1989, I

29 believe on the 9th of June of 1989 Mrs. Mary Elizabeth

30 Flynn died?

31 A. Yes.

32 Q. Yes. And her, on Saturday afternoon which was the 10th of

1 June you were at the house?

2 A. I was, yes.

3 Q. And later that became the removal to the church?

4 A. That was the removal, yes.

5 Q. When did you first notice Joseph Murphy Jnr's presence?

6 A. At the house.

7 Q. At the house, he was at the house?

8 A. Standing outside and lying up against a windowsill.

9 Q. This is Saturday afternoon?

10 A. At the removal.

11 Q. And in the house?

12 A. Indeed.

13 Q. And again on Sunday, which was the church ceremony, you  
14 noticed him?

15 A. Yes, I concelebrated, another priest celebrated the mass, I  
16 concelebrated it with him. I remember when the readings  
17 were going on, noticing that Joseph and Angela were  
18 kneeling together in the church, I thought to myself they  
19 were wonderful to come back from England for this funeral.

20 Q. Thank you. It was a morning mass I believe?

21 A. Yes.

22 Q. And then there was a meal afterwards?

23 A. Yes.

24 Q. Which you went on to?

25 A. I did yes, always join them for a meal afterwards.

26 Q. And again in this afternoon, did you notice Joseph Murphy  
27 Jnr's presence?

28 A. I certainly did, and Denis, his cousin.

29 Q. Thank you. When was your last recollection of Mr. Murphy  
30 Jnr's presence?

31 A. We stayed at the meal there and we had a drink afterwards  
32 with them, and I left I suppose about 5 or 6.

1 Q. Yes.

2 A. I can't be sure now of the exact time.

3 Q. Sometime Sunday afternoon?

4 A. Yes, it, would be late afternoon when I left.

5 Q. Thank you, Father. If you answer any questions my  
6 colleagues would have.

7 A. Right. Thank you.

8 .

9 MR. O'MOORE: On the basis that all that Father Rigney is  
10 dealing with is Mr. Murphy Jnr's presence in or at this  
11 funeral and at the removal for the Saturday and Sunday, and  
12 on the basis that Mr. Gogarty as long ago as the 24th of  
13 February of this year said the meeting at Mr. Burke's house  
14 certainly didn't take place on either of those days, it  
15 doesn't seem I have any questions at all for this witness.

16 .

17 CHAIRMAN: Thank you very much. Anybody else? Thank you  
18 very much, Father, for kindly coming to see us.

19 A. Thank you, Mr. Chairman. Thank you.

20 .

21 THE WITNESS THEN WITHDREW

22 .

23 MS. DILLON: Mr. Joseph Murphy please.

24 .

25 JOSEPH MURPHY JNR. CONTINUED TO BE EXAMINED BY MS. DILLON

26 AS FOLLOWS:

27 .

28 Q. MS. DILLON: Good afternoon Mr. Murphy.

29 A. Afternoon Ms. Dillon.

30 Q. Before lunch I was showing you an article from the Sunday  
31 Business Post of the 31st of March of 1996, and I think  
32 that we do have a hard copy now, if you would like a hard

1 copy? I want to ask you one or two more questions in  
2 relation to that. (Document handed to witness). If you  
3 see on the first column towards the end, "Another  
4 individual has claimed to the Newry solicitors, Donnelly  
5 Neary Donnelly, that in 1989 he personally gave the  
6 politician, who was also a local councillor, cash and  
7 cheques worth £40,000 on one occasion and was present when  
8 a property developer handed over an equivalent amount. The  
9 money was in return for the promised rezoning of almost  
10 1,000 acres of land and was to cover payments for a number  
11 of named councillors who would support specific zoning  
12 motions". Do you see that?

13 A. I do.

14 Q. I think you have already agreed this morning you were aware  
15 when you read that article that it referred to JMSE by  
16 reason of the matters that come later on in the article?

17 A. Correct.

18 Q. Right. So when you read that article, the 1,000 acres of  
19 land in question, did that mean to you when you read the  
20 article that they were the lands that had been sold by  
21 Grafton Construction and the other companies to Bovale  
22 Developments?

23 A. Yes, I would accept that.

24 Q. Yes. And were you aware at the time of this article, in  
25 1996, that the allegation was that monies had been paid in  
26 June of 1989 to Mr. Burke?

27 A. I am not sure whether there was, a specific date had been  
28 mentioned at that time, I am not sure.

29 Q. In your conversations with Mr. Reynolds following his  
30 conversations with Mr. Connolly, was 1989 or June of 1989  
31 mentioned?

32 A. It may well have, it may well have been.



1 Q. So it may have been the position, and you can put it no  
2 higher than that, that your state of knowledge of the  
3 allegations in or around the end of March of 1996 would  
4 have been that there was an allegation that money had been  
5 paid to Ray Burke in or around June of 1989 in relation to  
6 the lands that your companies, Grafton Construction, etc.  
7 had sold to Bovale Developments?

8 A. Correct.

9 Q. Right. Moving on then, Mr. Murphy, to deal with your own  
10 direct contact with Mr. Connolly, which I think you said  
11 took place in December of 1996?

12 A. Correct.

13 Q. And I understand that this was not a face-to-face meeting  
14 with Mr. Connolly?

15 A. Correct.

16 Q. Was this the only contact you had directly with Mr.  
17 Connolly?

18 A. There were two phone calls on that one occasion, I think  
19 Mr. Connolly said he had to go somewhere and if I would  
20 ring him back in half an hour. So there were two actual  
21 conversations within three quarters of an hour.

22 Q. Yes. Did he initiate the contact with you, Mr. Murphy?

23 A. He did.

24 Q. And when he rang you, can you tell us --

25 A. No, he didn't ring me. He rang --

26 Q. Sorry, I beg your pardon?

27 A. He rang JMSE in Santry and spoke to Frank Reynolds and left  
28 his number and I rang him back.

29 Q. And were you in Ireland at that time this occurred?

30 A. No, in London.

31 Q. So Mr. Reynolds contacted you with the information that Mr.  
32 Connolly would like to speak with you?

1 A. Correct.

2 Q. And gave you a telephone number?

3 A. Correct.

4 Q. And you telephoned Mr. Connolly?

5 A. I did.

6 Q. And your recollection is this was in or around December of  
7 1996?

8 A. Correct.

9 Q. And you telephoned Mr. Connolly then, and can you tell us  
10 what was said?

11 A. Again I am going from memory, but I think that Mr. Connolly  
12 put it to me that I was present at a meeting in Mr. Burke's  
13 house when money was handed over as a bribe for planning  
14 matters or planning favours, for lands. I responded to  
15 Mr. Connolly, I said that that suggestion was totally  
16 inaccurate, totally incorrect, that JMSE did not pay over  
17 any monies to Mr. Burke and I certainly never did  
18 personally.

19 Q. And in the course of that conversation with you did Mr.  
20 Connolly mention that the allegations related to an alleged  
21 payment in June of 1989?

22 A. He may well have, yes.

23 Q. At that stage, which was December of 1996, would you have  
24 been aware that the allegations such as were, that were  
25 floating around were centred on an alleged payment in June  
26 of 1989?

27 A. The allegations were made on, in March and April, a lot of  
28 time had passed since then. I think that which, what  
29 initiated Mr. Connolly's phone call to me, and this was  
30 relayed to me by Mr. Reynolds, I think Mr. Connolly  
31 informed him that Mr. Gogarty had informed him that either  
32 me or Mr. Bailey were making threats against him, if he

1 didn't meet us or something like that, I think that's what  
2 initiated his call to Frank Reynolds, and me ringing him  
3 back. I said that there was no threats, that would be in  
4 relation to the Burlington meeting.

5 Q. But in any event, Mr. Connolly put certain matters to you  
6 and you denied that you had been present at any meeting in  
7 Mr. Burke's house, and you denied any corrupt payment and  
8 denied any wrongdoing on the part of your companies?

9 A. I said to Mr. Connolly, "why would we, JMSE be paying money  
10 for a bribe, for lands that we are selling?". "When", I  
11 said this to Mr. Connolly. He said, "You were entering  
12 into a joint venture". I said that this was absolutely  
13 untrue. I said, "The lands were sold completely, for  
14 agricultural prices and there was never any discussion as  
15 far as I was concerned about a joint venture".

16 Q. And between the time that you had first heard of these  
17 allegations, via Mr. Frank Reynolds in March of 1996 and  
18 your conversation with Mr. Connolly in December of 1996,  
19 had you conducted any investigations as to whether or not  
20 any monies had been paid?

21 A. A verbal inquiry with Frank Reynolds and a verbal inquiry  
22 with my father.

23 Q. Yes. And did the evidence you have just given, did that  
24 span the two telephone conversations or were there separate  
25 matters discussed?

26 A. They were separate matters discussed. I was very aggrieved  
27 with Mr. Connolly, about the article on Sellafeld, that  
28 the Sellafeld, the OPW Sellafeld article. It might have  
29 been in the same thing, because Mr. Connolly had been  
30 assured, I think by Mr. Reynolds, that Sellafeld steel had  
31 not been fabricated in JMSE, and he had gone on to write  
32 that story regardless of being told otherwise. And we did

1 have a long discussion about that. I think he said, "This  
2 appeared in the press or the Evening Press, sometime  
3 before", or something like that.

4 Q. You were referring a story published on the 31st of March  
5 of 1996 in the Sunday Business Post?

6 A. Correct.

7 Q. On the same day the article appeared which we have just  
8 been discussing?

9 A. Yeah, there was another one headed up "OPW land used for  
10 Sellafield steel", something like that.

11 Q. Yes. So, in your first telephone conversation with Mr.  
12 Connolly, did you discuss this issue, the Sellafield issue  
13 or did you discuss the other issues in relation to the  
14 alleged payment to Ray Burke?

15 A. I think we touched on both issues. Mr. Connolly then said  
16 that he had, he was in a hurry or he had to do something or  
17 go somewhere, I said could I ring him back in half an hour.

18 Q. And did you?

19 A. I did.

20 Q. Yes. And you continued your conversation?

21 A. Continued the conversation, the conversation. He made a  
22 couple more allegations, he reiterated the Ray Burke  
23 payment, I reiterated that I had never met Ray Burke, my  
24 father had never met Ray Burke, I told him that Mr. Gogarty  
25 was a vicious evil liar and hell bent on revenge. He then  
26 said to me, he said that Mr. Gogarty had informed him that  
27 JMSE was close to another politician, Nora Owen. He said  
28 that JMSE had paid substantial sums of money to Nora Owen  
29 for her help in, I think it was securing the rent of the  
30 OPW land next door. I again reiterated that this was  
31 absolutely completely untrue.

32 Q. I am again just slightly concerned, again I am operating on

1 recollection only, perhaps Mr. Cooney can help me here, I  
2 am not sure this was put, and in the context of the  
3 Tribunal giving notice to anybody whose interests might be  
4 affected, in relation to the matter, if we could just have  
5 a moment, maybe to check to see whether this matter was put  
6 in relation to Mrs. Owen. I have a recollection something  
7 like this was put, Sir, but I can't be absolutely  
8 accurate.

9 .

10 CHAIRMAN: Do you want me to rise for five minutes?

11 .

12 MR. COONEY: I can't remember, I do remember the name of  
13 Mrs. Owen occurring during the course of, I think my  
14 cross-examination of Mr. Gogarty. I made it very clear, of  
15 course, that we were not in anyway making any allegation,  
16 there wasn't the slightest suspicion against her, I was  
17 mentioning it merely because she been mentioned by Mr.  
18 Gogarty and it occurred in the course of correspondence of  
19 which Mr. Gogarty had with Deputy Broughan. I can't  
20 remember the exact context.

21 .

22 In any event, Mr. Chairman, the reality is this witness has  
23 been asked what was said during the course of his  
24 conversation with Mr. Connolly. He is replying fully and  
25 fruitfully as he recalls.

26 .

27 MS. DILLON: Yes. My only concern, of course, is that the  
28 allegation --

29 .

30 MR. MacENTEE: Sorry, My Lord, I would like a short  
31 opportunity to be sure about what the transcript says about  
32 the cross-examination.

1 .

2 CHAIRMAN: I will rise for, we can do it in five minutes  
3 or thereabouts. It can be done quite quickly.

4 .

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

7 .

8 MR. MacENTEE: I'm obliged to you, Sir. Thank you

9 .

10 CHAIRPERSON: I beg your pardon, Mr. MacEntee. I just  
11 want to get this scrolled back for a moment, to find out  
12 what the question was. Yes, Mr. MacEntee?

13 .

14 MR. MacENTEE: I just wanted to say thank you, Sir, for  
15 giving me the opportunity to check that matter.

16 .

17 CHAIRPERSON: Now, there is a principle involved here. I  
18 am just looking at the text of the answer given by the  
19 witness. The particular portion of the answer is "He then  
20 said to me, he said that Mr. Gogarty had informed him that  
21 JMSE was close to another politician, Nora Owen. He said  
22 that JMSE paid substantial sums of money to Nora Owen for  
23 help in, I think securing a range of OPW land".

24 .

25 First of all I want to say that I am advised by my staff  
26 that that was never put to anybody in cross-examination.  
27 Nora Owen has no notice whatsoever of that allegation. It  
28 is prejudicial and very unfortunate that it should be made,  
29 and I would invite members of the press, I do not have any  
30 power, not to publish that statement, because Ms. Owen has  
31 never been advised that this was likely to arise, we have  
32 never had an opportunity of finding out from her what her

1 reaction to it would be. In all justice to the lady, she  
2 is in public life, it should not be published without her,  
3 the usual reasonable protocols we observe in this  
4 Tribunal.

5 .  
6 It is a matter, I ask for this courtesy from the press,  
7 that that should not be published, and likewise that this  
8 witness will not pursue that matter here in this room, in  
9 these circumstances.

10 .  
11 MS. DILLON: Yes, Sir. You will recollect, Sir, that Mr.  
12 George Birmingham applied in a similar situation in dealing  
13 with another witness for representation in respect of the  
14 Fine Gael Party, including amongst its officers Mrs. Nora  
15 Owen, and he asked that the Tribunal would inform him of  
16 any circumstances in which they felt the Tribunal might be  
17 aware of matters that would be relevant to the interests in  
18 which he was maintaining in these proceedings. Obviously  
19 in view of the fact that that matter has been raised here  
20 today for the first time we have not had an opportunity to  
21 alert Mr. Birmingham as to what happened. Out of courtesy  
22 to him we will contact him now and make available to him a  
23 page in the transcript in case at the end of the day he may  
24 wish to address you on the matter.

25 .  
26 CHAIRPERSON: For the moment until that has been achieved  
27 I have no doubt the press are equally desirous of being  
28 fair to all public representatives, as I am, and that they  
29 must have notice of this.

30 .  
31 Mr. Cooney, I appreciate your, you had no notice yourself  
32 of the fact that it was going to be said, and I don't in

1           anyway attribute any impropriety, it was one of these  
2           things that came out, we didn't know about it and I am sure  
3           you didn't either, otherwise you would have advised us.

4           .

5           MR. COONEY: Of course, and I am sure Mr. Murphy will  
6           comply with the view you have expressed, Mr. Chairman. I  
7           must make the point, if I may? Mr. Murphy was answering  
8           fully a question which he was asked, often --

9           .

10          CHAIRMAN: I don't doubt that.

11          .

12          MR. COONEY: Let me just finish for a moment,  
13          Mr. Chairman. Any mention which has occurred of Mrs. Owen  
14          during the course of this Tribunal, arises directly from  
15          allegations made by Mr. Gogarty. Please let me finish,  
16          Mr. Chairman. These allegations were made extensively in  
17          letters which Mr. Gogarty wrote to Mr. Broughan and which  
18          were introduced into evidence when Mr. Broughan was in the  
19          witness-box. That's the first point.

20          .

21          The second point, I would like to draw your attention to  
22          page 64 of Volume 51 of the transcript when Mr. Connolly  
23          was giving evidence in answer to questions from Mr. Desmond  
24          O'Neill. And at Question 78, this is an answer which Mr.  
25          Connolly gave: "Just before you go on, just for the  
26          record, because it may emerge in the future. I did speak  
27          to Mr. Bertie Ahern while he was the leader of Fianna Fail  
28          in opposition, in fact it was the day of the election vote  
29          in 1997, it was the evening of the election and I had not a  
30          - not a very lengthy conversation with him about the  
31          allegations and about Mr. Gogarty's claims. Mr. Ahern  
32          said he was aware of them, was conscious about them and was



1 carrying on, intended to get to the bottom of the story.

2 I also spoke to Mrs. Nora Owen in relation to this story on  
3 one occasion". Then the matter is left.

4 .

5 CHAIRMAN: Why, Mr. Cooney, are you trying to perpetuate,  
6 as I see it, the reference to Nora Owen in which she has no  
7 notice? And I have made a ruling on this matter. I have  
8 asked, requested that she be treated with the respect to be  
9 given an opportunity, if she wishes to respond. If the  
10 evidence wishes to be tendered at a later stage and she has  
11 notice, I have no problems.

12 .

13 MR. COONEY: Mr. Chairman, I already told you on an  
14 earlier occasion, I specifically said there couldn't be and  
15 wasn't a scintilla of suspicion against Mrs. Owen. We  
16 didn't introduce her name, it was Mr. Gogarty. Please let  
17 me finish, Mr. Chairman. Before we rose a check of the  
18 transcript was to be made, we have made a check of the  
19 transcript and this is one reference we can come across and  
20 we are bringing this to your attention, we have no desire  
21 whatsoever to drag Mrs. Owen into this Tribunal, I can  
22 assure you of that. If her name features in this Tribunal  
23 it is because allegations were made against her by Mr.  
24 Gogarty, as well I think unjustly and unfairly, but he has  
25 done that, not us.

26 .

27 MS. DILLON: Yes, Sir, if I may respond?

28 .

29 MR. CALLANAN: Just if I may respond? No allegations were  
30 made against Mrs. Owen in this Tribunal by Mr. Gogarty.

31 .

32 MR. COONEY: They were made in correspondence --

1

CHAIRMAN: Again I have made a ruling on this matter. I do not intend to pursue it or listen to any further submissions on it by anybody.

5

MS. DILLON: We will endeavor to contact Mr. Birmingham in the circumstances or Mr. Frank Clarke.

8

CHAIRMAN: All right.

10

Q. MS. DILLON: You were discussing with me, Mr. Murphy, your continuing discussion with Mr. Frank Connolly, in December of 1996?

A. Correct.

Q. And leaving aside the matter that you had just discussed before the break, and I would ask you not to refer to that matter again in the course of your evidence, what other matters were discussed between yourself and Mr. Connolly?

A. I think, as I have given in my evidence, it was the articles on the Sellafeld issue and on the Ray Burke issue.

Q. And if I can just take you back, sorry did Mr. Connolly mention the name of Mr. Bailey to you at all?

A. He did. He did. He mentioned a joint venture, when he mentioned the joint venture with the Baileys.

Q. Have you any recollection of Mr. Connolly mentioning a - of Mr. Reynolds mentioning to you that Mr. Connolly had mentioned a joint venture to him?

A. No.

Q. You had met Mr. Michael Bailey in November, you think, in 1996 and then you met, you spoke on the telephone to Mr. Frank Connolly in December of 1996?

1 A. Correct.

2 Q. And Mr. Connolly suggested to you that there may have been  
3 a joint venture with Mr. Michael Bailey?

4 A. When I told him, when he put the allegation, the bribe  
5 allegation to me, I told him that it was nonsense, why  
6 would we be bribing somebody to develop lands that we were  
7 selling or had sold? He responded then about the joint  
8 venture and I dismissed that, I said "there was no  
9 conversations at all about a joint venture".

10 Q. Yes. But the matter had not gone away, as you had hoped it  
11 would go away in March, the matter was still alive in  
12 December of '96. You had met Mr. Bailey in November of  
13 1996, and following your conversation with Mr. Connolly,  
14 did you contact Mr. Bailey to say, to discuss the matter?

15 A. No, I did not.

16 Q. Did you feel - sorry?

17 A. Let's put this into context, Ms. Dillon. I think that  
18 Frank Connolly's article was on or around the end of March,  
19 and the beginning of April, I did seek legal advice at the  
20 time and I think that my solicitor sought counsel's advice  
21 at the time, and the advice was there was nobody named,  
22 nothing could be done. The thing died down, as far as I  
23 was concerned, I mean this article just dismissed it with  
24 the shots, with the damage to his cars, the whole thing, it  
25 just seemed ludicrous to me. The meeting with Mr. Bailey  
26 was in respect of maybe a shake hands with Mr. Gogarty.  
27 And Mr. Connolly's initial telephone call to Mr. Frank  
28 Reynolds in JMSE was about an article he said he was going  
29 to write about more alleged threats if he didn't turn up  
30 for this meeting at the Burlington. But subsequent to the  
31 conversation I explained I didn't threaten Jim Gogarty, I  
32 said the meeting was organised by Mr. Bailey and we went on

1 to discuss the subsequent events in his articles.

2 Q. Yes. What we had been discussing before that was you  
3 didn't make any connection at that stage, or did you make  
4 any connection at that stage when Mr. Connolly said to you  
5 "were you involved in a joint venture with Michael  
6 Bailey?", you having previously met Mr. Bailey, did you  
7 feel if you went to speak to Mr. Bailey he would be able to  
8 shed some light on this matter?

9 A. Not at all. This comment confirmed to me the absolute  
10 ludicrous suggestion, this joint venture.

11 Q. Yes. And following that conversation with Mr. Connolly,  
12 did you conduct any inquiries or searches within JMSE in  
13 respect, again to see had any monies been paid to Mr.  
14 Burke?

15 A. No, I did not, Ms. Dillon. I think that the issue, in  
16 respect of the media, in newspapers, had died down. I was  
17 very busy, I had a business to run.

18 Q. Um. When did the matter next become an issue for you?

19 A. I think when the next article was written in, some time in  
20 May of '97 I think it may have know, Mr. Connolly again, I  
21 think it was an article, something similar to the first  
22 article.

23 Q. Is this the article of the 11th of May, 1997?

24 A. I think so, if you could give it to me.

25 Q. Yes of course, it's coming up on the screen. It should be  
26 there beside you?

27 A. Coming up now, yeah.

28 Q. Sorry, can you --

29 A. If you can just make it a little bit bigger please.

30 Q. Sorry, we have it in hard copy - we will have it in hard  
31 copy in a second. Can you read that now?

32 A. I can, yes.

1 Q. And that was an article - "A former company director who  
2 has made serious allegations of planning corruption  
3 against a senior Fianna Fail politician, has indicated to  
4 the Gardai that he will make a formal signed complaint if  
5 he is granted immunity from prosecution. The retired  
6 company director has alleged that he was present when  
7 £80,000 was paid over to the politician who had promised to  
8 get a large tract of land rezoned.

9 .  
10 The Complainant has been interviewed in recent weeks for  
11 periods totalling 12 hours by senior Garda officer.

12 .  
13 The company director says the money in two cheques of  
14 40,000 each was paid over by two persons active in the  
15 construction property sector, neither of whom can be named  
16 for legal reasons. He says that the transaction took  
17 place in the living room of the politician's home.

18 .  
19 The two men who are alleged to have handed over the cheques  
20 are denying the allegations.

21 .  
22 Contrary to media reports last week the man making the  
23 allegation is not seeking to extract money from his former  
24 employer and has told the Garda that he is prepared to drop  
25 a separate civil action against his former employer and  
26 owner of the company if his complaints are investigated  
27 fully by the authorities.

28 .  
29 Garda inquiries were initiated several weeks ago after a  
30 series of questions were put to the Minister for Justice.

31 .  
32 It is understood that the former executive was informed

1 that the DPP will consider the issue of immunity for the  
2 Complainant.

3 .

4 His legal representatives have said he was perplexed by  
5 news reports in the Sunday Independent and Irish Times last  
6 week which suggested he was not prepared to make a formal  
7 complaint, and that he was using the police investigation  
8 to extract monies from his former employers".

9 .

10 Then it goes on to set out contact with Donnelly Neary  
11 Donnelly and it - I will read it in full.

12 .

13 "Solicitor Kevin Neary of Donnelly Neary Donnelly the  
14 Newry firm of solicitors which is representing the retired  
15 executive has written to the Garda seeking clarification of  
16 the status of the investigation.

17 .

18 A decision on immunity has to be made before he signs a  
19 complaint, but it is not true to say that he was refusing  
20 to make a formal complaint to the Garda the solicitor told  
21 the newspaper.

22 .

23 In the meantime a writ has been served on the man's former  
24 employer and a Statement of Claim is currently under  
25 preparation.

26 .

27 Proceedings have been issued and served. We have  
28 instructed counsel to draft a claim for exemplary damages.

29 We expect to be in a position to serve a Statement of Claim  
30 within the next few weeks asking for an early date for a  
31 hearing Neary said.

32 .

1 The Minister for Justice, Nora Owen, has confirmed that  
2 immunity is a matter for the DPP.

3 .

4 The former executive has retained a volume of documents  
5 relating to his involvement in planning matters he has  
6 given".

7 .

8 That seems to be all, I think the rest of it seems to be  
9 missing - but anyway, insofar as that is complete, Mr.

10 Murphy, when you read that, did that mean to you that this  
11 again was Mr. Gogarty and his allegations?

12 A. Correct.

13 Q. So that you knew at that stage that the allegation was that  
14 monies had been paid over by two persons active in the  
15 construction property section, "neither of whom could be  
16 named for legal reasons"?

17 A. Correct.

18 Q. Did you associate that with the sale of the North Dublin  
19 lands?

20 A. I did.

21 Q. So that in your mind at that time was one of the persons  
22 that was possibly involved in this, Mr. Michael Bailey?

23 A. Correct.

24 Q. And did you contact Mr. Michael Bailey to say "what is  
25 going on here? What has happened? What's this all  
26 about?"?

27 A. I did not.

28 Q. Why was that?

29 A. I didn't know Mr. Bailey very well. I knew that, or  
30 thought at the time that this money had not come out of  
31 JMSE, and if there was any sort of truth to this rumour it  
32 wasn't any of my business.

1 Q. Except that you were aware, I think, that Mr. Connolly had  
2 contacted you the previous December to make an allegation  
3 that money had been paid by JMSE?

4 A. Correct, yes. But I knew that I wasn't at that meeting or  
5 no other director of JMSE was in the meeting. As I have  
6 said before in my evidence, the reason for this was before  
7 we sold the lands for agricultural prices.

8 Q. Yes, but in the light of the fact that this was then a  
9 continuing story, you were aware from what you previously  
10 have said, that the year concerned was 1989, the politician  
11 was Mr. Ray Burke, you had probably heard the June period  
12 mentioned and you had connected it with the sale of the  
13 North Dublin lands?

14 A. Correct.

15 Q. Right. And Mr. Gogarty was a director in June of 1989?

16 A. He was, yes.

17 Q. Yes. In all of those circumstances, and in the light of  
18 all of that information that you had in May of 1997, what  
19 inquiries did you conduct in relation to whether there was  
20 any possibility that this, there was any truth in any of  
21 these allegations?

22 A. I think I may have rung my father again. I discussed it  
23 with Frank Reynolds and I rung Roger Copsey.

24 Q. All right. We will take each of those in turn, if you  
25 don't mind Mr. Murphy? You rang your father. I think you  
26 have told us that your father was very rarely in Ireland at  
27 around that time?

28 A. Correct.

29 Q. And can you tell me what conversation you had with your  
30 father in relation to this matter?

31 A. I would have told him that Mr. Gogarty is making  
32 allegations in the newspapers that JMSE paid over £40,000



1 to Mr. Ray Burke as a bribe to develop the lands.

2 Q. And what was your father's reaction to this?

3 A. Absolute nonsense. "Sure didn't we sell the lands for  
4 agricultural prices. We were never developing those  
5 lands".

6 Q. And Mr. Frank Reynolds, did you discuss the matter with Mr.  
7 Reynolds face-to-face?

8 A. I would have, I may have discussed it on the phone and then  
9 I would have discussed it face-to-face, yes.

10 Q. And can you tell me what yourself and Mr. Reynolds  
11 discussed?

12 A. I asked Mr. Reynolds to go to the cheque journal for JMSE  
13 and look for a £40,000 payment in or around that time.

14 Q. And did Mr. Reynolds respond to that request?

15 A. He did.

16 Q. And can you tell us what that response was?

17 A. He said there was in payment in the cheque journal book of  
18 £40,000 at that time.

19 Q. Yes. And can you tell us when was this?

20 A. It would have been shortly after this article was written.

21 Q. In May of 1997?

22 A. Correct.

23 Q. The figure in the article involved two cheques of £40,000  
24 each; isn't that right?

25 A. That's correct.

26 Q. And there is a figure of £80,000?

27 A. That's correct.

28 Q. And did you conduct a check to see whether £80,000 had been  
29 taken out of the company?

30 A. We may well have, yes.

31 Q. Is that yes, you did conduct such a --

32 A. Well I think that - I think that we were concentrating on

1 the 40 figure. I think that the allegations had been made  
2 that two separate companies or two separate builders had  
3 paid £40,000 each, and I think we looked for a figure of  
4 40.

5 Q. And I think you had told me before lunch, or I think it was  
6 before lunch that you had told me you were aware that a  
7 figure of £30,000 had also been mentioned?

8 A. When did I tell you that?

9 Q. I think before lunch?

10 A. I did not.

11 Q. Very good. In any event, what you were looking for was a  
12 figure of £40,000 only?

13 A. Correct.

14 Q. And you were looking specifically for a figure of £40,000  
15 in the cheque journal payable to Mr. Ray Burke?

16 A. Correct.

17 Q. And the allegation that had been in the previous newspaper  
18 of the 31st of March of 1996 was that cash and cheques  
19 worth £40,000 on one occasion had been paid over?

20 A. That was in the first article, yes.

21 Q. That was in the first article. So your search, insofar as  
22 you were investigating this matter, was a search for a  
23 cheque payment to Mr. Ray Burke of £40,000?

24 A. A cheque of £40,000. We would have checked, if there was  
25 a cheque, even if it wasn't made out to Ray Burke, we would  
26 have looked at it. We couldn't see any particular figure  
27 for in or around that period for £40,000.

28 Q. Yes. And the cheque, the company's accounts that you were  
29 looking at were the company accounts of JMSE?

30 .

31 MR. COONEY: Chairman, if you just forgive me for  
32 intervening. Ms. Dillon has moved from the article of the

1 31st of March of 1996 to the article of the 11th of May of  
2 1997, 13 months later. Could I just point out in the  
3 second article published in 1996, that's the 7th of April,  
4 the figure mentioned there is also £40,000.

5 .

6 MS. DILLON: That's correct, the second article I referred  
7 to £40,000 cash and cheques.

8 .

9 MR. COONEY: No.

10 .

11 MS. DILLON: If Mr. Cooney gives me the date of the  
12 article I have it.

13 .

14 MR. COONEY: Yes, it just says "£40,000".

15 .

16 CHAIRMAN: "December the 4th, '96. Fianna Fail will deal  
17 forcibly with corruption".

18 .

19 MR. COONEY: Yes. You see in the fourth paragraph down.

20 "The former" - as far as I can see, Mr. Chairman, the  
21 mention is £40,000 and it doesn't say whether it is cash or  
22 cheque.

23 .

24 MS. DILLON: Yes, the article in which I referred to cash  
25 and cheques was the article that I had been specifically  
26 putting to the witness at that time.

27 .

28 MR. COONEY: Yes, but I think in fairness to the witness,  
29 the way the matter is put to him, what occurs in the  
30 earlier publication in relation to figures should be put in  
31 fairness as well.

32 .

1 CHAIRMAN: Mr. Cooney, you are going to have an  
2 opportunity to tidy up these minor details. At the moment  
3 --

4 .

5 MR. COONEY: I am glad you regard them as minor.

6 .

7 CHAIRMAN: I do regard them as minor in the context of  
8 what we are discussing. We have been here dealing with  
9 this matter for over a year, we should know the difference  
10 between the 40, the 30, the 20 plus 10.

11 .

12 MR. COONEY: That's what I would have thought.

13 .

14 CHAIRMAN: Carry on, Ms. Dillon.

15 .

16 Q. MS. DILLON: Excuse me. Do I understand, Mr. Murphy,  
17 that your evidence is that you commissioned a check in JMSE  
18 in respect of a cheque or a payment of £40,000?

19 A. I asked Frank Reynolds to look in the cheque journal book  
20 and see if he could see a payment of £40,000, yes.

21 Q. And a cheque journal book is a record that is kept of  
22 cheques paid; isn't that right?

23 A. Correct.

24 Q. Yes. And if a withdrawal has been made, let us - for  
25 example of the bank of £40,000 in cash, that wouldn't show  
26 up in a cheque payments book; isn't that right?

27 A. It would I think, yes.

28 Q. I understood that the cheque payments book is a record of  
29 cheques paid?

30 A. Yes, but if there was a cheque for 40 made out to cash it  
31 would have been cashed.

32 Q. I obviously didn't make myself clear enough. If you had

1           gone down to the bank, or if X, an individual had gone to  
2           the bank and withdrawn from the bank without writing a  
3           cheque a sum of £40,000, that figure would not have  
4           appeared in the cheque payments book?

5           A. No, obviously not.

6           Q. All right. So your search was limited to a search in JMSE  
7           for a sum of £40,000?

8           A. Limited at that time, yes.

9           Q. Yes. And what period of time were you searching for?

10          A. We checked the cheque journal book and that was it. I had  
11          a word with Roger Copsey, I specifically put to him Mr.  
12          Gogarty's allegations that were appearing in the  
13          newspapers. I said that did he know anything about a  
14          payment to Ray Burke, I specified Ray Burke. He said  
15          "absolutely not".

16          Q. Yes, if we can come back to the question that I asked you,  
17          which is what period of time were you searching for?

18          A. It would have been shortly after the article was written.

19          Q. Sorry, you are looking at the cheque payments book; is that  
20          right?

21          A. Cheque journal, yeah.

22          Q. Are you looking at the cheque journal for 1986?

23          A. No.

24          Q. What cheque journal are you looking at?

25          A. For 1989.

26          Q. For what period in 1989 are you looking at the cheque  
27          journal?

28          A. As I say I asked Frank Reynolds to look at that in or  
29          around this period.

30          Q. June of 1989?

31          A. Yes, obviously yes.

32          Q. That's what I was trying to establish. Now, you - the

1 search, did - was the search wide enough to look for both a  
2 payment by cash and a cheque payment?

3 A. We looked specifically for the £40,000 figure.

4 Q. Yes. In a cheque?

5 A. In the cheque journal.

6 Q. And the - did you examine the accounts at Grafton  
7 Construction?

8 A. No.

9 Q. So that the examination that was conducted was in respect  
10 of the cheque only of £40,000 in the accounts of JMSE?

11 A. Correct, the investigations at that time was not in depth,  
12 because as I say I knew the allegations were not true, but  
13 we did have a look in the cheque journal, we confined it to  
14 that.

15 Q. Now, you were aware that in 1989 the sale was closed in  
16 relation to the lands in Forest Road?

17 A. I was aware the sale was closed, yes, sometime in around  
18 that.

19 Q. Approximately 1.45 million I think; is that right?

20 A. Sorry, are you talking about Forest Road lands?

21 Q. Yeah?

22 A. No, no, no I wasn't involved in anyway, shape or form.

23 Actually I think when it came to the arbitration I think  
24 Mr. McArdle or Mr. Reynolds informed me that there was  
25 previous lands sold to the same purchaser.

26 Q. Yes, I am not asking whether you knew the same purchaser or  
27 whether you were intimately acquainted with the lands, I am  
28 asking in general were you aware that 1.4 million pounds  
29 had been received by Grafton Construction in or around  
30 1989?

31 A. No, I wouldn't have been aware.

32 Q. Were you aware a payment had been received by Grafton

1 Construction in 1989?

2 A. No, I wouldn't have been aware of the detail of that.

3 Q. I am not asking you of the detail of the payment, about  
4 where it came from, but that funds, substantial funds had  
5 come into Grafton Construction in 1989?

6 A. No.

7 Q. And you were a director in 1989 of Grafton Construction?

8 A. Non executive.

9 Q. Yes, you were a non executive director of Grafton  
10 Construction in 1989?

11 A. Correct.

12 Q. You were unaware that a significant asset owned by the  
13 company had been disposed of and the company had been paid  
14 a sum of 1.4 million pounds?

15 A. I was, there was a lot of happening at the time.

16 Q. Yes, of course. Now, you say you discussed the matter  
17 with Mr. Roger Copsey?

18 A. I did.

19 Q. And can you tell us approximately when you had that  
20 conversation?

21 A. Sometime in around after this article was written.

22 Q. So this article we were referring is the second article  
23 which was May of 1997?

24 A. Correct.

25 Q. Right. And sometime in May of 1997 did you speak to Mr.  
26 Copsey?

27 A. I did.

28 Q. Did you speak to him on the telephone or did you speak to  
29 him face-to-face?

30 A. On the telephone.

31 Q. And can you tell us what your query to Mr. Copsey was?

32 A. I asked him, I told him that Mr. Gogarty was making an

1 allegation in respect of the lands, that we, JMSE, were  
2 supposed to have paid over money to Mr. Ray Burke. Did he  
3 know anything about that? He said no.

4 Q. So insofar as your query to Mr. Copsey was a very specific  
5 query, it wasn't in connection with a payment to a  
6 politician, it was limited to a payment to Mr. Ray Burke?

7 A. Correct.

8 Q. And did Mr. Copsey indicate to you that he had no knowledge  
9 of any payment to Mr. Ray Burke?

10 A. He did.

11 Q. Did he mention to you there might have been a political  
12 contribution about that time?

13 A. No.

14 Q. Well if I can, I just want to put one document to you now  
15 in relation to that, which is a document from Denis  
16 McArdle's documentation which is JMSE 12.1 - 115. I think  
17 everybody has this document, Sir.

18 .

19 MR. COONEY: If Ms. Dillon can identify it a bit more  
20 specifically?

21 .

22 CHAIRPERSON: It is an attendance by Mr. McArdle of a  
23 telephone conversation, in which he makes a particular note  
24 with a question-mark. That's my recollection of the  
25 document.

26 .

27 MR. COONEY: Is this an attendance dated the 8th of June  
28 of 1989?

29 .

30 MS. DILLON: Yes.

31 .

32 MR. COONEY: Very well. May I just say here, if Ms.



1       Dillon is doing to introduce this attendance, in fairness  
2       to the witness all the other documents which are directly  
3       connected with this should also be introduced. He should  
4       not be cross-examined in isolation, on one particular  
5       document, it is not complete and not fair.

6       .

7       CHAIRMAN: We will see the validity of your submission in  
8       the course of examination. If it comes correctly I shall  
9       certainly agree that you are correct.

10      .

11      MR. COONEY: May it please you.

12      .

13      MS. DILLON: I am only going to deal with this document at  
14      the moment in relation to this particular issue that has  
15      arisen.

16      .

17      MR. COONEY: Excuse me --

18      .

19      CHAIRMAN: Excuse me, let us at least get the question  
20      asked and you can then object to it when we know what the  
21      question is.

22      .

23      MR. COONEY: You indicated you thought it would be fair  
24      and proper that all documents directly connected to this  
25      document should be dealt with at this time. Ms. Dillon  
26      seemed to say something that was contrary to that.

27      .

28      CHAIRMAN: What I said was we will see the validity of  
29      your submission in the course of the examination, if it  
30      comes correctly I shall certainly agree that you are  
31      correct, that's what it says on the screen.

32      .

1 MR. COONEY: All right. Can I then further submit that  
2 that attendance is followed by another attendance on the  
3 same day, followed by a letter from Mr. McArdle to the  
4 Industrial Credit Corporation, it is followed by bank  
5 statements, followed by further correspondence from Mr.  
6 McArdle to Mr. Copsey, all of these documents are  
7 intimately connected. It is unfair to a witness to choose  
8 one in isolation and take it out of context and ask  
9 questions.

10 .

11 CHAIRMAN: Mr. Cooney, you are trying to dictate to  
12 Counsel for the Tribunal how they will conduct their  
13 business. You have, as I understand it, a function here  
14 today as the witness, as the counsel briefed on behalf of  
15 the Murphy interests, that you will be on your feet  
16 presumably within some period of the day, presumably the  
17 last counsel to - and there is no good reason why you can't  
18 clarify each one of these matters up in the manner in which  
19 it would be normally done, by counsel in re-examination  
20 which is what you will be.

21 .

22 Now, could we now proceed with the business of the house?

23 .

24 MR. COONEY: Mr. Chairman, could I not try - I am not  
25 trying to dictate anything to Counsel of the Tribunal, I am  
26 trying to invoke the ordinary rules of evidence which are  
27 designed to ensure fair play to a witness in the  
28 witness-box, that's all.

29 .

30 MS. DILLON: I reject the allegation that this witness is  
31 being treated unfairly. I had said to Mr. Cooney, if he  
32 listens to what I am saying, I had, I intended to put this

1 document now to the witness if I am let finish. I don't  
2 unfortunately seem to be able to. I was about to say I  
3 would before I finished with this witness proceed to deal  
4 with each of the documents Mr. Cooney had dealt with,  
5 instead of jumping to conclusions in advance if Mr. Cooney  
6 would just wait and see how matters develop.

7 .

8 MR. COONEY: Could Ms. Dillon --

9 .

10 CHAIRMAN: The matter is now at an end. This discussion  
11 is now at an end until there is any - let Ms. Dillon  
12 proceed. If you have further objection to make by all  
13 means do so. Let the matter proceed.

14 .

15 MR. COONEY: On a point of clarification, does Ms. Dillon  
16 mean she is going to deal with other documents now?

17 .

18 CHAIRMAN: "I reject the allegation that this witness is  
19 being treated unfairly. What I have said to Mr. Cooney, if  
20 he listens to what I have said, I intend to put this  
21 document now to the witness, if I am let finish. It seems  
22 - I want to say I would - before I finish with this -  
23 proceed to deal with each of the documents Mr. Cooney has  
24 dealt with. Instead of jumping to conclusions in advance,  
25 if Mr. Cooney would just -". And may I respectfully join  
26 with Ms. Dillon in the last three sentences of that note.

27 .

28 The matter is now at an end.

29 .

30 MR. COONEY: Sorry, may I respectfully ask does Ms. Dillon  
31 intend to deal --

32 .

1 CHAIRMAN: Mr. Cooney, I have said the matter is now at an  
2 end and I mean it.

3 .

4 MR. COONEY: There is no point in shouting at me.

5 .

6 CHAIRMAN: You are not entitled to interrupt the  
7 proceedings on purpose to make life difficult.

8 .

9 MR. COONEY: No, I am asking you to clarify matters for  
10 me, it is not proper to shout at me in response to that.

11 When counsel has a reasonable request to make to the

12 Tribunal he is entitled to a reasonable answer, and my

13 question is this: Will Ms. Dillon indicate that she

14 intends to use the other documents which are connected to

15 the one document introduced now, or does she intend to

16 introduce them later on?

17 .

18 CHAIRMAN: What she said - "before I finish with this

19 witness I will proceed to deal with each of the documents

20 Mr. Cooney has dealt with". What more can you want by way

21 of clarification?

22 .

23 MR. COONEY: Yes there is, Mr. Chairman. Surely it is

24 perfectly reasonable to ask me, or to ask Ms. Dillon

25 through you, Mr. Chairman, whether or not her intended use

26 of the other documents will occur at the same time as she

27 is using the first document? That's all, Mr. Chairman. Is

28 there anything unreasonable about that request?

29 .

30 CHAIRMAN: It is --

31 .

32 MR. COONEY: If you think that's unreasonable I am wasting

1 my time then.

2 .

3 CHAIRMAN: You are wasting your time at the moment.

4 .

5 Q. MS. DILLON: Now, Mr. Murphy, you said that you went to  
6 speak to Mr. Copsey and that you asked him a specific  
7 question which was about a payment of £40,000 in or around  
8 June of 1989 to Mr. Ray Burke?

9 A. No, sorry, Ms. Dillon, I said I phoned him, I telephoned  
10 him.

11 Q. You asked him, I think is what you said?

12 A. I think you may have said I went to him.

13 Q. Yes, sorry, I must have got mixed up, you are correct. So  
14 you asked him that specific question?

15 A. Correct.

16 Q. And was that the extent of your inquiry with Mr. Copsey?

17 A. It was.

18 Q. Did it not occur to you, Mr. Murphy, that you might have  
19 widened the inquiry a little bit at that time?

20 A. With hindsight now, yes, but as I say I dismissed it at the  
21 time, like I dismissed the other article with the shots and  
22 all that as rubbish.

23 Q. Yes. You were aware, of course, that Mr. Gogarty had been  
24 a director of all the land holding companies up to 1989?

25 A. Of course.

26 Q. And you were aware that these allegations were emanating  
27 from Mr. Gogarty?

28 A. I was.

29 Q. Would you think that it might have been prudent to have  
30 widened the search to include the accounts of the land  
31 holding companies?

32 A. No. We just checked in JMSE at the time. I referred

1 back to the three things that Mr. Gogarty had said to me

2 back in 1992 and I looked upon this as the second one.

3 Q. And when you went to speak to Mr. Copsey can you tell us

4 what his response was to you?

5 A. On the telephone?

6 Q. Yes, sorry, when you spoke to him?

7 A. I asked him did he know anything about a payment to Mr. Ray

8 Burke in or around June of 1989. I said that "Mr. Gogarty

9 has made these allegations to the media", and he said "no".

10 Q. And had you had regular dealings with Mr. Copsey over the

11 previous number of years?

12 A. No.

13 Q. When was the last time --

14 A. Mr. Copsey was gone from the company at this stage, Ms.

15 Dillon. He was gone from the company seven years, I had no

16 contact with him in those seven years.

17 Q. So you ring Mr. Copsey up out of the blue and you say "I

18 have the following query. In June of 1989 was there a

19 payment of JMSE to Mr. Ray Burke of £40,000?"?

20 A. Correct.

21 Q. And he says "no"?

22 A. Correct.

23 Q. And that is the end of the conversation?

24 A. Correct, yes. I think maybe general conversation about

25 Gogarty but that was the gist of it, yes.

26 Q. I want to show you now a document which I think you have

27 read while Mr. Cooney was making his submissions which is a

28 document JMSE 12.1 - 115?

29 A. The red book?

30 Q. No, in the handwritten, the loose document there?

31 A. No, these are just the two Business Post articles.

32 Q. No, you should have had another book of loose documents?

1 A. No.

2 Q. You haven't a book of loose documents, Mr. Murphy? It  
3 doesn't matter. (Document handed to witness.) If you  
4 take that document, this is an attendance of Denis McArdle,  
5 the solicitor acting on behalf of JMSE and the land owning  
6 companies, and dated the 8th of June of 1989, and it is an  
7 attendance on Mr. Roger Copsey, who was at that stage  
8 Financial Director of JMSE?

9 A. Correct.

10 Q. And it reads as follows: "£30,000 wanted today". If we  
11 could have this - I will read it and we will put it on the  
12 screen. "£30,000 wanted today, if possible. £10,000  
13 cheque and £20,000 cash. June 15th - election -  
14 contribution? I told him I could not get cash but it would  
15 (abbreviated) be in the form of a bank draft". Did that  
16 accord with what's in front of you, Mr. Murphy?

17 A. Yes.

18 Q. And that, I suggest to you, is an attendance by Mr. McArdle  
19 on Mr. Copsey on the 8th of June of 1989, seeking a payment  
20 of £30,000 as a political contribution?

21 A. Is it a phone call or a, an attendance.

22 Q. Well, it is an attendance, it was discovered in Mr. Denis  
23 McArdle's documents?

24 A. I think Mr. Denis McArdle made a statement, did he clarify  
25 whether that was a phone call or a meeting?

26 Q. It's a phone call. Right? So that would appear to be a  
27 request by Mr. Copsey from Mr. McArdle for £30,000 as a  
28 political contribution.

29 .

30 MR. COONEY: Sorry for intervening again. Since the  
31 question of Mr. McArdle's statement has arisen, he has dealt  
32 specifically with it and said, I think political

1 contribution is what he records in his statement.

2 .

3 CHAIRMAN: Well, the document has just been read to the  
4 witness.

5 .

6 MR. COONEY: I think Ms. Dillon had now introduced Mr.  
7 McArdle's statement to the witness. I think what Mr.  
8 McArdle says in the statement concerning this statement, in  
9 fairness should be put to the witness, I think that's  
10 fair.

11 .

12 MS. DILLON: I don't quite understand what Mr. Cooney is  
13 asking me to do. I am sorry I was coughing at that stage  
14 and I missed what he was saying. Yes - am I being asked

15 --

16 .

17 CHAIRMAN: It says: "Sorry for intervening again. Since  
18 the question of Mr. McArdle's statement has arisen he has  
19 dealt specifically with it and said, I think political  
20 contribution is what he records in his statement".

21 .

22 MR. COONEY: Yes.

23 .

24 CHAIRMAN: But that is also what he records, as I recall  
25 it, on the actual document.

26 .

27 MR. COONEY: No, it said "question-mark", Mr. Chairman.

28 .

29 A. MS. DILLON: I am proposing to deal with these documents,  
30 and I am going to ask the witness some questions about it,  
31 that's what I am proposing to do.

32 .



1 Now, that suggests, Mr. Murphy, that Mr. Copsey was looking  
2 for £30,000 from Mr. McArdle for a political contribution?

3 A. Correct.

4 Q. And it also suggests that Mr. McArdle was telling him he  
5 couldn't get cash of £30,000 but it was in the form of a  
6 bank draft?

7 A. Correct.

8 Q. Right. So that insofar as this is a record of anything,  
9 it is a record of the fact that Mr. McArdle on the one hand  
10 and Mr. Copsey on the other hand, knew that Mr. Copsey had  
11 wanted £30,000 for a political contribution in June of  
12 1989?

13 A. That's what it says.

14 Q. Yes. Now, the next document I want to put to you is a  
15 document of the same date in different handwriting, record  
16 number JMSE 1.7 - 9. This is an attendance headed  
17 "General - Roger Copsey", and underneath it are the words  
18 "Eilish", and the attendance reads as follows, it will  
19 come on the screen in a moment. "Roger Copsey", beneath  
20 that "Said to forget call of this morning and at his  
21 reasonable leisure draw up cheque from client account for  
22 £30,000 payable to JMSE. If you need a letter of  
23 instruction or such like phone his secretary, Eilish. 8th  
24 of June of 1989".

25 .

26 That appears to be an attendance on a telephone call by Mr.  
27 McArdle's secretary on Mr. Copsey, saying to forget the  
28 call of this morning and at his leisure get a cheque from  
29 the client account for £30,000 payable to JMSE?

30 A. Correct.

31 Q. And that would appear again, to be a reference back to the  
32 earlier requests for £30,000 for the political

1 contribution?

2 A. Correct.

3 Q. So that again would suggest that on a second occasion, on  
4 the 8th of June of 1989, Mr. Copsey contacted Mr. McArdle's  
5 office though not Mr. McArdle himself, in relation to the  
6 request for £30,000?

7 A. Correct.

8 Q. The next document I want to show you is JMSE 1 - 7 - 10,  
9 which is a letter from Denis McArdle addressed to the  
10 Industrial Credit corporation - do you have that?  
11 (Document handed to witness). To the Industrial Credit  
12 Corporation, and account 011/04/3847701, which I think was  
13 the client account of Mr. Denis McArdle in which the Forest  
14 Road lands funds were held?

15 A. That may well be the case, yes.

16 Q. And it says: "We should be obliged if you would give the  
17 bearer of this letter a cheque for £30,000 out of our above  
18 numbered account". And it is signed "McArdle & Company"  
19 and addressed to the Industrial Credit corporation, 32/34  
20 Harcourt Street, Dublin 2?

21 A. Correct.

22 Q. This would appear to be, following on Mr. Copsey's request  
23 of that morning for £30,000, that this was Mr. McArdle  
24 writing to the ICC requesting "to give the bearer of the  
25 letter a cheque for £30,000 out of the above account",  
26 which was Mr. McArdle's client account and in which the  
27 funds of Grafton had been lodged?

28 A. That seems to be the case, yes.

29 Q. Yes. There are then two cheque stubs that I wish to put  
30 to you dated the 8th of June of 1989. (Documents handed  
31 to witness). And these are cheque 011546, dated the 8th of  
32 June of 1989, Re: Grafton, cash £20,000. And the 8th of

1 June of 1989, Re: Grafton, cash £10,000, the cheque number  
2 being 011547. And these, I suggest to you, are the cheque  
3 stubs in relation to the JMSE account?

4 A. Correct.

5 Q. And they would suggest that on the 8th of June a sum of  
6 £30,000 was cashed or withdrawn from the accounts of JMSE?

7 A. Correct.

8 Q. The next document I want to give you is document JMSE 1.7 -  
9 11, which is a bank statement in the name of Joseph Murphy  
10 Structural Engineers Limited, No. 2 Account, which is the  
11 account on foot of which these cheques were drawn, and mine  
12 is an extremely bad copy, I hope yours is a better copy.  
13 (Document handed to witness). And do you see at the very  
14 last entry on that document?

15 A. I do.

16 Q. Do you see where there is an "X" beside £20,000?

17 A. Yes.

18 Q. That is the cheque for £20,000, the stub of which we looked  
19 at a few moments ago, and the date of that is the 8th of  
20 June, as you can see on the top. If the matter can be  
21 brought down? That statement is dated 8th of June, and  
22 that indicates that that cheque for £20,000 was cashed on  
23 the 8th of June of 1989?

24 A. Correct.

25 Q. Yes. The next document I want to show to you is a letter  
26 dated the 12th of June of 1989, which is a letter addressed  
27 to Mr. Roger Copsey. It is from Mr. Denis McArdle, the  
28 reference is JMSE 1 .7 - 12, and it says "Re: Grafton  
29 Construction Company Limited - land at Swords". That, I  
30 presume, is a reference to the Forest Roads lands, the  
31 lands at Swords?

32 A. Yes.

1 Q. "I refer to our telephone conversation of Thursday last",  
2 that was the attendance we looked at first in relation to  
3 the request for £30,000, political contribution. "And  
4 confirm that I am sending a cheque for £30,000 payable to  
5 JMSE directly to Jim", and I suggest that reference to Jim  
6 is a reference to Mr. James Gogarty?

7 A. Correct.

8 Q. And that is a copy letter signed by Mr. McArdle and  
9 addressed to Roger Copsey at Copsey Murray & Company,  
10 Accountants?

11 A. Correct, yes.

12 Q. And the next document I want to show you is JMSE 1.7 - 13,  
13 which is a letter of the 13th of June of 1989, again from  
14 Mr. Denis McArdle, addressed to Messrs. Copsey Murray &  
15 Company, "Re: Grafton Construction Company Limited/Reliable  
16 Construction (Dublin) Limited". They were the owner of  
17 Forest Road lands. "Further to my letter of the 12th inst.  
18 the sum of £30,000 requisitioned from the Industrial Credit  
19 Corporation has now come to hand. I telephoned Jim to  
20 inquire whether I should post to him or if he would prefer  
21 to have it collected, but he tells me he does not need it  
22 and I should send it to you. What am I to do?" Do you  
23 see that?

24 A. I do.

25 Q. The Jim, I suggest, is Mr. Gogarty?

26 A. Yes.

27 Q. The £30,000 requisitioned from the ICC is the money that  
28 Mr. McArdle received from the Grafton Construction account  
29 with Denis McArdle?

30 A. Correct.

31 Q. And which he was now seeking to forward to Mr. Gogarty, as  
32 we saw previously, but it had been, he didn't want it and

1 he was asking Mr. Copsey what was he to do with it?

2 A. Correct.

3 Q. Right. So it would appear from that sequence of events.

4 The next document I want to show to you is a document dated  
5 the 13th of the 6th of 1989, a handwritten attendance from  
6 Mr. Denis McArdle. It is entitled - I think we may have  
7 it. (Document handed to witness). And this is a document  
8 that originated in Mr. McArdle's files. It is entitled "R  
9 Copsey - £30,000 to JMSE.

10 1. Tim O'Keeffe. 2. Will split it when he does final tax  
11 computation". Beneath, "Apportion it between the two  
12 companies, Grafton/Reliable. Went to Joe with overall  
13 bill. Joe Snr. takes some from such-and-such a company -  
14 it's for professional services - will send me invoice".

15 .

16 The £30,000 referred to there, I suggest, Mr. Murphy, is  
17 the £30,000 payment we have been looking at?

18 A. Must be.

19 Q. Yes. The reference to Tim O'Keeffe is a reference to Mr.  
20 O'Keeffe who was Roger Copsey's assistant who was  
21 permanently working I think in the office of JMSE in 1989?

22 A. Correct.

23 Q. The reference to "splitting" was a reference to Tim  
24 O'Keeffe would split it when he was doing the tax  
25 computation?

26 A. Looks like that, yes.

27 Q. And it was to be apportioned between the two companies,  
28 Grafton and Reliable?

29 A. Yes.

30 Q. There is a reference then "Went to Joe with overall bill",  
31 do you have any recollection of anybody going to you with a  
32 bill, Mr. McArdle or Mr. Copsey in or around this time?

1 A. No.

2 Q. So that reference to Joe was not a reference to you?

3 A. Yes.

4 Q. And then it says beneath that, "Joe Snr. take sum from  
5 such-and-such a company. It's for professional services  
6 will send on invoice", seems to be a reference that Mr.  
7 Murphy Snr. had said to take funds from particular or  
8 individual companies for professional services?

9 A. Yeah, I think this may relate to Roger Copsey's billings.

10 Q. Or equally it may relate to Mr. McArdle's bills?

11 A. Yes.

12 Q. And that is dated the 13th of June of 1989?

13 A. Correct.

14 Q. The next document that I want to show you is a letter from  
15 Mr. McArdle to Mr. O'Keefe, and it is JMSE 1.7 - 15.

16 .

17 MR. COONEY: There is another letter of the 13th of June.

18 I am not sure if Ms. Dillon opened that - also from Mr.

19 McArdle to Mr. Copsey. Now, I am not sure if this has been  
20 opened, for the sum of £30,000 requisitions from the

21 Industrial Credit Corporation --

22 .

23 Q. MS. DILLON: Yes, I have just opened that. Yes, I went

24 through that letter with the witness and he has confirmed

25 that the Jim referred to there is Mr. James Gogarty. We

26 have been through that.

27 .

28 The next letter Mr. Murphy, is a letter of the 14th of June

29 of 1989, and it is from Mr. McArdle to Mr. O'Keefe, and

30 Mr. O'Keefe was Mr. Copsey's accountant working in JMSE in

31 1989?

32 A. Correct.

1 Q. And you have the letter. And it says: "On the  
2 instructions of Mr. Roger Copsey I enclose herewith cheque  
3 of £30,000 which I have endorsed in favour of JMSE. Your  
4 sincerely Denis McArdle". And I suggest the reference to  
5 the cheque for £30,000 is a reference to the ICC cheque  
6 that Mr. McArdle had withdrawn from the account of Grafton  
7 Construction in his client account?

8 A. That must be the case.

9 Q. Yes. And that was being endorsed over in favour of JMSE?

10 A. Correct.

11 Q. That was to the repayment of two cheques drawn on the 8th  
12 of June of 1989 in the account of JMSE, one in the sum of  
13 £20,000 and one in the sum of £10,000?

14 A. Correct.

15 Q. Right. And the final document in this series that I want  
16 to show to you is a bank statement in which is JMSE 1.7 -  
17 16, it is June, 1989, and it is the bank statement of JMSE,  
18 and that on the 20th of June of 1989 shows a lodgement in  
19 the sum of £30,000, and that I suggest to you was the  
20 lodgement and repayment of the money that had been  
21 forwarded to Mr. O'Keeffe from Mr. McArdle?

22 A. Correct.

23 Q. And there is one final document that I should show to you,  
24 which is the cashing of the cheque for £10,000, which is  
25 JMSE 1.7 - 17, and that again is a bank statement of Joseph  
26 Murphy Structural Engineers, and it shows that on the 22nd  
27 of June of 1989 a cheque in the sum of £10,000 was cashed.

28 .

29 MR. COONEY: Sorry --

30 .

31 MS. DILLON: Presented for payment.

32 .

- 1 MR. COONEY: Debited, yes.
- 2 .
- 3 Q. MS. DILLON: Debited?
- 4 A. Correct, yes.
- 5 Q. And the cheque number in relation to that is 011547?
- 6 A. Correct.
- 7 Q. That is the previous cheque stub we looked at, that had the
- 8 payment Grafton cash, £10,000?
- 9 A. Yes.
- 10 Q. Yes. So the sequence - in relation to the matter that is
- 11 I was asking you which was your conversation with Mr. Roger
- 12 Copsey, which was a conversation that you had with Mr.
- 13 Copsey when you rang him up and made the inquiry to him,
- 14 was an inquiry in relation to £40,000 payment to Mr. Ray
- 15 Burke in June of 1989?
- 16 A. Correct.
- 17 Q. Can you just remind me again, the approximate time when you
- 18 made that telephone conversation to Mr. Copsey?
- 19 A. It would have been sometime shortly after that article
- 20 appeared in the newspaper, I can't be more precise.
- 21 Q. In May, in around May of 1997?
- 22 A. Yes, yes.
- 23 Q. And in that period of time, from the time in 1996 when you
- 24 first became aware through Mr. Frank Reynolds that there
- 25 might be a potential problem for the company in relation to
- 26 a political contribution, did anybody consider going back
- 27 to check through the banking documentation?
- 28 A. No, Ms. Dillon. I think there was a 13 month gap between
- 29 the articles. I stand corrected. I had thought that the
- 30 whole thing had died down. As I said after the initial
- 31 articles, we took legal advice and took counsel's advice,
- 32 and the whole thing had died down. Then it appeared again



1 in May in that particular article and I have just explained  
2 the investigation that I did.

3 Q. Yes. The documents that we have just gone through, Mr.  
4 Murphy, seem to establish that a request was made for a  
5 payment of £30,000 as a political contribution by Mr. Roger  
6 Copsey to Mr. Denis McArdle, a cheque was requisitioned  
7 from the Grafton Construction bank accounts and in the  
8 meantime two cheques were drawn on the JMSE account on the  
9 8th of June?

10 A. That's correct.

11 Q. And the funds that Mr. McArdle furnished were used to repay  
12 JMSE?

13 A. That's correct.

14 Q. Right. Now, I want to move on to deal with issues in  
15 relation to which Mr. Gay Grehan has given evidence, as you  
16 are aware, to this Tribunal --

17 .

18 MR. MacENTEE: Sorry, Chairman, it is probably proper that  
19 the record should record that Mr. McArdle is the late Mr.  
20 McArdle who died some months ago.

21 .

22 CHAIRMAN: That is on the record already.

23 .

24 MR. MacENTEE: So-be-it.

25 .

26 Q. MS. DILLON: Sorry, I should have asked you, when did you  
27 first become aware of the existence of these documents?

28 A. Do you want to go through them one by one?

29 Q. No, just in general, Mr. Murphy?

30 A. I think in around the time, August, early August, July or  
31 August of '97, some of them August, some of them maybe  
32 July.

1 Q. All right. Mr. Gabriel Grehan has given evidence to this  
2 Tribunal, and he has given evidence that he was aware of  
3 rumours in JMSE in 1996, unspecified rumours in relation to  
4 payments to politicians, and he has given evidence in  
5 relation to that. He has also given evidence of a  
6 conversation that he had with you in June of 1997, a  
7 telephone conversation?

8 A. Correct.

9 Q. And he says that that telephone conversation was a  
10 three-way telephone conversation between yourself, Mr.  
11 Reynolds and himself?

12 A. Correct.

13 Q. Yes. Can you tell me what you recollect about that  
14 conversation?

15 A. I had been phoned, I think it was the 23rd of June, on the  
16 Monday, by Mr. Dermot Ahern, and I had arranged to meet him  
17 the next day, to pick him up from the airport. Mr.  
18 Grehan, I think, made contact with Mr. Reynolds that night,  
19 I think that Mr. Reynolds may have told Mr. Grehan about  
20 this meeting and said that, expressed, he said that Mary  
21 Harney was very interested or something in this meeting, so  
22 I think he arranged with Mr. Grehan to speak to me on the  
23 morning of the 24th.

24 Q. And you spoke to him?

25 A. We had the three-way conversation, yes.

26 Q. Can you tell me what that was all about?

27 A. He said that Mary Harney had made contact with him the  
28 previous day and knew about the meeting and may be anxious  
29 to speak to me, would there be any problem with him giving  
30 her my phone number.

31 Q. And was that the full extent of that telephone  
32 conversation?

1 A. No, he said he knew about the Dermot Ahern meeting and that  
2 she may want to talk to me about certain matters.

3 Q. And the matters that were being discussed were what  
4 matters?

5 A. Obviously this Ray Burke issue.

6 Q. And between the time that you spoke to Mr. Frank Connolly  
7 in December of 1986 and the time that you were - 1996, 1996  
8 and the time that you spoke to Mr. Dermot Ahern, which we  
9 will come on to deal with in a minute, had any other  
10 investigations been done in JMSE about this payment?

11 A. No.

12 Q. Other than the two inquiries you have already told us, the  
13 three inquiries that you have already told us that you made  
14 to your father --

15 A. Correct. I may have had a general discussion with Frank  
16 Reynolds, "it is ridiculous, typical Mr. Gogarty",  
17 whatever, but no, no investigation, no.

18 Q. Right. And in the course of your conversation with Mr.  
19 Grehan on that occasion, did you reassure him that no  
20 payments to any politicians had been made in connection  
21 with planning matters or lands?

22 A. I did.

23 Q. Did you reassure him that no political contributions at all  
24 had been made?

25 A. I did.

26 Q. And was Mr. Grehan satisfied with that?

27 A. Seemed to be.

28 Q. Did you mention the figure of the allegation of the £30,000  
29 to Mr. Ray Burke?

30 A. I didn't mention any figure to Mr. Grehan.

31 Q. And did you tell Mr. Grehan to leave the matter with you,  
32 that you were dealing with it?

1 A. No.

2 Q. Mr. Grehan has said that you did say that?

3 A. How does he mean "leave the matter to me"? He knew I was  
4 going to meet Mr. Dermot Ahern. He was in contact with  
5 Mary Harney and, because I think his wife was going up for  
6 election or whatever else, and I didn't say "leave the  
7 matter to me", that doesn't make sense.

8 Q. Yes. And while Mr. Grehan has given evidence, he said on  
9 one occasion in the course of his evidence, at Question 389  
10 in answer to a question from Mr. Gallagher and --

11 .

12 MR. COONEY: Which page?

13 .

14 MS. DILLON: 58.

15 .

16 MR. COONEY: Which volume?

17 .

18 Q. MS. DILLON: Day 99. "Is it your evidence that having  
19 spoken with all three gentlemen you were left with a  
20 knowledge that a payment of £30,000 had been made by JMSE  
21 to Mr. Burke in 1989?"

22 Answer: Yes.

23 Question: So far as you were concerned Mr. Murphy at  
24 least had told you it was not made for or in connection  
25 with planning matters?

26 Answer: That's correct, yes.

27 Question: Did Mr. Reynolds tell you whether it was made  
28 for planning, in connection with planning matters or any  
29 other reason?

30 Answer: As far as Mr. Reynolds was concerned, as far as  
31 he was concerned it wasn't made for planning matters and he  
32 was quite pleased to hear that too at the time".

1 .  
2 Do you have any recollection of a conversation of that sort  
3 taking place?

4 A. Absolutely not.

5 Q. Now in fairness, in cross-examination by Mr. Cush, Mr.  
6 Grehan, it was put to Mr. Grehan that in fact he had two  
7 telephone conversations with you, one in June and one in  
8 August?

9 A. I think that's so, yes.

10 Q. Yes. So would you tell us now, what you say transpired in  
11 the June conversation and what you say transpired in the  
12 August conversation?

13 A. In the June conversation, my recollection of that is that  
14 he told myself and Frank Reynolds that he had been  
15 contacted by Mary Harney and she might be interested in  
16 speaking to me about the Dermot Ahern meeting.

17 Q. And the purposes of the Dermot Ahern meeting was what, Mr.  
18 Murphy?

19 A. Well, Dermot Ahern had rung me the day before and informed  
20 me that he wanted to speak to me about certain allegations  
21 in the newspapers, he left it at that, he didn't speak any  
22 more over the phone, this is before I actually met him.

23 Q. Yes. So what did you conclude from that? What allegations  
24 was he talking about?

25 A. Obviously these allegations, yeah.

26 Q. Of a payment to Mr. Burke?

27 A. Correct.

28 Q. So that when you were having your conversation with Mr.  
29 Grehan and he was telling you, I think you mentioned that  
30 he had been talking to Mrs. Mary Harney; is that correct?

31 A. Yeah, he had certainly told me that Ms. Harney had  
32 contacted him, subsequently read in the transcripts, I

1           wasn't here for his evidence, I read the transcripts and I  
2           think it was the other way around or whatever.

3           Q. But both of you were talking about the same thing, this  
4           allegation of the payment to Mr. Ray Burke?

5           A. The purpose of the phone call, that morning, was as far as  
6           I was concerned was, he was seeking my permission to give  
7           my number to Mary Harney.

8           Q. And nothing else?

9           A. I think that the Dermot Ahern meeting later on that day was  
10          touched on. I told him that I would be telling Dermot  
11          Ahern that JMSE never paid any money to Mr. Burke for  
12          planning favours.

13          Q. Yes. There seems to be some conflict there in relation to  
14          that. You had a second telephone conversation with Mr.  
15          Grehan, I think it was put to Mr. Grehan in August of 1997?

16          A. Sometime later, yes.

17          Q. And can you tell - sometime later, was it not in August of  
18          1997?

19          A. Yes, it may well have been, yes.

20          Q. And can you tell us the purpose of that conversation?

21          A. From memory now, I think I didn't have too many direct  
22          contacts with Mr. Grehan over the phone, maybe it might  
23          have been a time when Mr. Reynolds was away or Frank was  
24          away on holidays, I would have told him I was astounded at  
25          what we had found out at the time about the payment to Mr.  
26          Burke.

27          Q. You rang him up to tell him --

28          A. No, I wouldn't have rung him up to specifically tell him  
29          that. I can't remember in what context, it may have  
30          been. I think that Mr. Reynolds, Mr. Frank Reynolds may  
31          have been away on holiday, when Mr. Frank Reynolds was away  
32          on holidays I would talk and deal directly with Mr. Grehan,

1 but certainly I would not have rung him up specifically to  
2 tell him that, it may have come up in the conversation, I  
3 would have been talking business or a contract or whatever.

4 Q. So can I take it then that up to the 24th of June of 1997  
5 the inquiries that you had conducted in relation to this  
6 alleged payment to Mr. Ray Burke was a question posed to  
7 Mr. Frank Reynolds, a check conducted in the cheque journal  
8 of JMSE, an inquiry of your father and an inquiry of Mr.  
9 Roger Copsey?

10 A. Correct.

11 Q. There had been no examination of any of the land owning  
12 companies?

13 A. No.

14 Q. Or any other documents other than the cheque journal?

15 A. Correct.

16 Q. Excuse me a moment, Mr. Murphy. Now, that was the state  
17 of your knowledge and information before you met Mr. Dermot  
18 Ahern?

19 A. Correct.

20 Q. And can you tell me how you came to meet Mr. Ahern?

21 A. I was phoned in the office in London on the Monday the 23rd  
22 by a Mr. Chris Wall.

23 Q. The 23rd of?

24 A. June.

25 Q. Year, 1997?

26 A. Yeah, sorry. He said he was speaking on behalf of Mr.  
27 Bertie Ahern and would I speak to Mr. Dermot Ahern on his  
28 behalf. I said I would, and Mr. Dermot Ahern telephoned  
29 me I think within half an hour.

30 Q. And you spoke with Mr. Ahern?

31 A. I did.

32 Q. And you made arrangements to meet him, I think the

1 following day in London?

2 A. Correct.

3 Q. And I think you picked Mr. Ahern up from the airport?

4 A. I did.

5 Q. And you went to a hotel where you sat in the foyer, I think

6 Mr. Ahern described it?

7 A. That's correct.

8 Q. And would you like to tell us now, your recollection in

9 relation to that meeting with Mr. Ahern?

10 A. From the hotel onwards, yes?

11 Q. From the car onwards, whatever you wish?

12 A. Well --

13 Q. The time you first met him?

14 A. I think it was a general, we shook hands at the airport,  
15 went to the car park, I mean the Forte Crest is only a  
16 small distance from the hotel car park, I think I was aware  
17 through the newspapers that there was negotiations going on  
18 at the time between Fianna Fail and the PDs for a  
19 coalition, I asked him if the PDs were going to row in with  
20 them as such, I meant by that were they going to join  
21 forces with them, he kind of smiled and said they don't  
22 have much choice, sort of thing, they were nearly  
23 obliterated in the last election, some sort of comment like  
24 that.

25 .

26 Then we went in to the hotel, we sat down, I think  
27 straightaway he posed three questions to me. The first  
28 question he posed to me was "Did JMSE or any related  
29 companies pay Mr. Ray Burke money in or around June of  
30 1989? If so were any favours asked, if so were any favours  
31 given?" I said "no" to all three questions.

32 Q. Was there any other conversation?



1 A. Other conversation, yes. It went on to deal exclusively  
2 with Gogarty. As I said I had a file on Mr. Gogarty, I  
3 went through the P60 issue with Mr. Ahern in maybe quite  
4 some detail, explained to him that, explained to him what  
5 Mr. Gogarty was doing, that he was no better, no worse off,  
6 we have gone through that earlier on. I told him that Mr.  
7 Gogarty was a vicious evil liar, hell bent on destroying  
8 the Murphys and their companies. I also had, I think, a  
9 copy of the three or four, three or four Business Post  
10 articles which we discussed.

11 .

12 I think the first one I discussed, I think, was the  
13 Sellafield issue. I said that JMSE had accommodated Mr.  
14 Connolly in Santry and explained to him that no Sellafield  
15 steel had been fabricated in the Santry premises. I said  
16 "yet, he still went and printed the article".

17 .

18 I told him that it was ridiculous - and this was a  
19 suggestion he agreed with me. I told him it was ridiculous  
20 to suggest that we would be paying a bribe to Mr. Burke for  
21 lands that we were selling or had sold for agricultural  
22 prices. I said I had put this to Mr. Connolly when  
23 speaking to him in 1996 and he suggested to me that there  
24 was a joint venture. I told this to Mr. Ahern. I said  
25 that there was absolutely no suggestion whatsoever of a  
26 joint venture with Bailey, with Mr. Bailey. He agreed  
27 that the suggestion to pay a bribe to somebody to develop  
28 lands that you were selling was ludicrous.

29 Q. Did you mention Mr. Michael Bailey?

30 A. I said, I did. I told him that I had never met Michael  
31 Bailey in my life. I told him that my father had never  
32 met Michael Bailey in his life and I told him that Jim

1 Gogarty did all the negotiations in that land deal with the  
2 Baileys.

3 Q. Did you indicate to Mr. Ahern on that occasion, that you  
4 were satisfied that no monies had gone out of JMSE?

5 A. I did, I answered "no" to his three questions.

6 Q. No, sorry, I am not making myself clear enough. Did you  
7 have a discussion with Mr. Ahern on that occasion about  
8 whether it was possible that money had been taken out of  
9 JMSE?

10 A. Yes, I think that Mr. Ahern asked would it be possible for  
11 James Gogarty to have taken this money out without anyone's  
12 knowledge. I think I told him that I wasn't sure, but I  
13 would have to check that. Most of the cheques which was at  
14 that time in 1997, I think that the cheques required two  
15 signatories and I would go and check to see if that was the  
16 case back in 1989.

17 Q. Did you tell him that you were, that you had checked the  
18 books and checked the records and that you were satisfied  
19 that no monies had been paid?

20 A. I told him that I checked with my father, I told him I  
21 checked with Roger Copsey, I told him I checked with Frank  
22 Reynolds, and I told him that I, neither me nor my father  
23 had ever met Mr. Ray Burke.

24 Q. Mr. Ahern has, as you are aware, given evidence to the  
25 Tribunal and his overriding concern in going to London to  
26 meet you was to satisfy himself that monies, whether or not  
27 monies had been paid to Ray Burke; isn't that right?

28 A. Yes.

29 Q. That was the purpose of the inquiries so from Mr. Ahern's  
30 point of view in conducting this inquiry, the single most  
31 important thing would be to get a response as to whether or  
32 not monies could or indeed had been paid to Mr. Ray Burke

1 by your company?

2 A. That would be fair, yes.

3 Q. Did you tell Mr. Ahern that your inquiries in respect of  
4 whether or not monies been paid consisted of looking at the  
5 cheque journal for 1989?

6 A. Yes, I think I told him that we had looked at the cheque  
7 journal and I checked with the three previous people and we  
8 couldn't see any record of this.

9 Q. Did you tell Mr. Ahern that you had looked at the books of  
10 the company?

11 A. No.

12 Q. Did you tell him that you had looked only at the document  
13 that is the cheque journal?

14 A. I mentioned to him that we had checked with the payment, or  
15 the cheque payment, cheque journal book. I consulted with  
16 three other directors at the time and they all said "no".

17 Q. Mr. Ahern has given evidence, on which he wasn't  
18 challenged, that you told him you checked all of the  
19 records. The reference is Day 50, I think it is, page 9,  
20 page 19. I will get the reference for you in a moment,  
21 but that you had checked all of the records of the company?

22 A. I may have said "checked the records", but at the time we  
23 had only checked the cheque journal.

24 Q. That's why I would like you to be, to concentrate on this  
25 answer, Mr. --

26 A. No, I did not say we checked all the records.

27 Q. You are clear in your recollection?

28 A. Yes.

29 Q. Are you clear in your recollection that what you said to  
30 Mr. Ahern was that you had checked the cheque journal?

31 A. I may not have mentioned cheque journal. I am not 100  
32 percent sure, I think that I may have said we checked some

1 records, some records but the emphasis was more on the  
2 checking with Mr. Reynolds, Mr. Copsy and my father.

3 Q. And did you explain to Mr. Ahern that your inquiry to Mr.  
4 Copsy who was the Financial Director of the company in  
5 1989 was whether or not £40,000 had been paid to Ray Burke  
6 in June of 1989?

7 A. I told him that these three people and myself had no  
8 knowledge of a payment to Mr. Burke in June of 1989.

9 Q. But you hadn't searched for any payment to Mr. Burke, had  
10 you, Mr. Murphy? You had searched for a £40,000 payment  
11 only?

12 A. Yes.

13 Q. Yes?

14 A. But we knew the allegations were being made against Mr.  
15 Burke.

16 Q. The question that Mr. Ahern posed to you, was it a question  
17 in relation to £30,000, £40,000?

18 A. He mentioned three figures.

19 Q. Would you mind telling the Tribunal what they were?

20 A. He mentioned three figures of 40, 60 and 80.

21 Q. And in the question that he put to you, which was the first  
22 question that he put to you, did he mention a figure in  
23 connection with that question?

24 A. No.

25 Q. So if you could tell us again what you recollect the first  
26 question was?

27 A. "Did JMSE or any associated companies pay over a sum of  
28 money to Mr. Ray Burke?".

29 Q. And in answering that question to, positively to Mr. Ahern?

30 A. He put all three questions to me without me answering and  
31 then I said "no".

32 Q. If we just deal with this, this is a very important issue,

1 Mr. Murphy, as I am sure you are very aware. In answering  
2 that question, which was whether JMSE or any associated  
3 companies had paid over a sum of money to Mr. Ray Burke,  
4 right, in relation to that question, you were basing your  
5 negative answer to Mr. Ahern on a search that had been  
6 conducted in the cheque journal for £40,000 of JMSE only?

7 A. Correct.

8 Q. And the three responses you had got in relation to a  
9 similar verbal question that you had posed to your father,  
10 Mr. Reynolds and Mr. Copsey?

11 A. Correct. There was no cheque journals for other  
12 companies. JMSE the main trading company, I think was the  
13 only one that had a cheque journal book.

14 .

15 MR. COONEY: I wonder if - Miss Dillon quite rightly said  
16 these are important matters, I wonder now if she would  
17 identify specifically the transcript of Mr. Ahern's  
18 evidence where this evidence was given and all relevant  
19 answers and questions? Perhaps it could be read out to the  
20 witness and perhaps he could be given a copy of the  
21 transcript, just as Mr. Gogarty received when he required  
22 it.

23 .

24 MS. DILLON: Yes, I will deal with the witness in my own  
25 way.

26 .

27 MR. COONEY: With respect, deal with the witness fairly.

28 .

29 Q. MS. DILLON: I am dealing with the witness fairly, Mr.  
30 Cooney. I reject your allegation that I am dealing with  
31 the witness unfairly.

32 .

1 Now, Mr. Murphy, in relation to that question that was  
2 posed to you, the information that you gave, the answer you  
3 gave to Mr. Dermot Ahern was a negative answer?

4 A. Correct.

5 Q. And it was based on the inquiries that we just discussed?

6 A. Correct.

7 Q. And Mr. Ahern, at page 19, as I had already indicated to  
8 Mr. Cooney, Question 56 of the relevant day's transcript of  
9 Mr. Ahern's evidence, perhaps he didn't hear me, Day 50.  
10 Question 56.

11 .

12 "Did he indicate to you what had been checked by Mr. Frank  
13 Reynolds? What the nature of the documents were that were  
14 checked?" And answer - and he wasn't cross-examined on  
15 this: "He stated he checked throughout all the records,  
16 which I understood to be all the accounts of the company".

17 .

18 So it would appear from Mr. Ahern's evidence to this  
19 Tribunal that his understanding in relation to those  
20 queries was an examination of all of the accounts of the  
21 company had been conducted and that they had failed to show  
22 any payment?

23 A. That's not correct.

24 Q. Well, Mr. Ahern --

25 A. I didn't use the words "all the accounts".

26 Q. I'm afraid Mr. Ahern wasn't, to the best of my knowledge, I  
27 will certainly clarify it if it is the position, checked,  
28 cross-examined in relation to that?

29 A. Well that's - up to counsel.

30 .

31 MR. COONEY: Perhaps Ms. Dillon might go on to Question  
32 57.

1

MS. DILLON: "Did he tell you what period was being checked --

4

MR. COONEY: With respect, I think she should read out the answer to Question 57 as well.

7

CHAIRMAN: She is reading out the question to start with.

10

Q. MS. DILLON: I was trying to read out question. I am now attempting to read it. Mr. Cooney's question is the question number 57, and when I am finished reading the question I will then read the answer.

15

"Did he tell what you period was being checked to ascertain whether there had been such a payment?"

17

Answer: Well again we would have been referring to the period of 1989 when all of this was supposed to have occurred, which, you know, again I largely was going on the media reports that were in the public domain as to when this would have taken place, but when I was speaking with Mr. Murphy on the second occasion he was quite adamant that he had checked for that period, that no cheque or no money could have been taken out of the JMSE accounts or in the companies accounts generally without Mr. Frank Reynolds, and that he had subsequently, as I said, checked"?

28

A. No, that's incorrect. The purpose of the second meeting was to inform him that I had checked about the second signatories in 1989. I wasn't sure whether a second signatory was needed on the cheques as in 1997 which was the case, I didn't know whether that was the case in 1989.

32

1 Q. Yes. You see --

2 A. That was the purpose of meeting Dermot Ahern on the second  
3 occasion.

4 Q. You see Mr. Ahern was never challenged on any of this?

5 A. Well, that's a matter for counsel.

6 Q. Well, on foot of your instructions, Mr. Murphy?

7 A. Correct, yes.

8 Q. And that would appear to suggest --

9 A. There is a lot, I must say that Mr. Ahern was very nice and  
10 cordial to me on both occasions, but we are in serious  
11 dispute about certain issues. We agree on a lot of issues  
12 but we are in dispute over certain issues.

13 Q. So the question that you recollect Mr. Ahern putting to  
14 you, and he disagreed with this in his evidence, it was  
15 three different questions that he put to you?

16 A. Correct, yes.

17 Q. But the first question he put to you was, "Did JMSE or any  
18 related companies pay any money to Mr. Burke?"?

19 A. That's correct.

20 Q. In the light of the evidence that you have given here to  
21 the only check that was ever conducted good, bad or  
22 indifferent related to JMSE. How were you in a position to  
23 answer that question?

24 A. As far as I was concerned the allegations were made as a  
25 bribe for planning corruption and as far as I was concerned  
26 it was rubbish.

27 Q. Here you have a situation which was an unusual and unique  
28 situation. You have a potential Minister, a serving TD  
29 involved in the formation of the Government rings you up  
30 and wants to come to London to talk about a serious and  
31 urgent matter, he has three important questions for you,  
32 the first of which is you say, Mr. Ahern disagrees, "Did



1 JMSE or any related company pay Mr. Ray Burke money in or  
2 around June of 1989?" That's the first question; isn't  
3 that right?

4 A. Yeah. JMSE, I am not sure whether he said "related  
5 company", he may, he may not, but you must remember, Ms.  
6 Dillon, that Mr. Ahern rang me the night before in London,  
7 with only one day's notice to meet him, that was my  
8 knowledge, I told him that in good faith.

9 Q. But the question that I was about to put to you, and you  
10 were the person who was telling the Tribunal that the  
11 question that was put by Mr. Ahern was "Did JMSE or any  
12 related company pay monies to Mr. Burke?"?

13 A. I am not sure whether he said any related company, JMSE, I  
14 am not sure about that.

15 Q. Well, your counsel cross-examined on the basis that,  
16 presumably on your instruction that that in fact was the  
17 question and that your evidence to this point, you have  
18 said that was the question?

19 A. Fine, I will accept that, yes.

20 Q. In the light of the question --

21 .

22 MR. COONEY: I wonder if Ms. Dillon could identify in the  
23 transcript in ease of us --

24 .

25 Q. MS. DILLON: I will in a minute when I am finished asking  
26 this question. Now, in the light of the fact that it is  
27 your evidence here today that the question put by Mr. Ahern  
28 was whether it was JMSE or any related company, and in the  
29 light of the fact that your evidence has been that the only  
30 examination that took place of any company was JMSE, how  
31 were you in any position to give any adequate answer to Mr.  
32 Ahern?

1 A. That was my knowledge at that time, Ms. Dillon, I told him  
2 that in all good faith.

3 .

4 Q. MS. DILLON: I am just trying to find that reference now  
5 for Mr. Cooney. I will find the reference Mr. Cooney was  
6 looking for before we finish. Hopefully I will find it.  
7 Anyway, to move on from that, was that the entire content  
8 of your conversation with Mr. Ahern on that occasion?

9 A. Absolutely not, no.

10 Q. What other matters were discussed?

11 A. I expressed surprise, I asked him was anybody else going to  
12 talk to the people that were involved at the meetings, Mr.  
13 Gogarty, Mr. Bailey or Mr. Burke, I specifically mentioned  
14 Mr. Burke. I said "has this been discussed with Mr.  
15 Burke?", he said "no", that that wasn't a matter for him,  
16 that was a matter for the party leader. I asked him was  
17 anybody going to speak to Mr. Gogarty, he smiled and he  
18 said "no", he said that Gogarty sounded like a head case,  
19 complete head case and said that nobody is going to speak  
20 to him. I said "what about Mr. Bailey?", he said that and  
21 I know before I am stopped here, I know that Mr. Dempsey  
22 has come into this Tribunal and I fully accept that he had  
23 no discussions with Mr. Bailey, but I have never met Mr.  
24 Dempsey in my life, I have no grievances with him, I didn't  
25 pluck his name out of mid-air, Mr. Ahern told me that Mr.  
26 Dempsey was going talk to Mr. Bailey on the matter. But I  
27 fully accept he didn't, but he told me this.

28 .

29 CHAIRPERSON: Ms. Dillon, I just want to find out from  
30 you, would you - will you finish this afternoon? You are  
31 changing slightly going on to another - do you want to  
32 continue until half past four or quarter to five?

1 .

2 MS. DILLON: Yes, Sir, I will be anxious to finish.

3 .

4 CHAIRMAN: I suggest we break for five minutes and then  
5 come back to continue until such time as you conclude or  
6 indicate that you have, up to around a quarter to five or 5  
7 o'clock.

8 .

9 MS. DILLON: Yes, Sir.

10 .

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

13 .

14 MS. DILLON: I have checked the transcript, Sir, and in  
15 relation to the matter that I put to Mr. Murphy, in that  
16 both he, the evidence he had given today was that the first  
17 question posed by Mr. Dermot Ahern was "Did JMSE or any  
18 related company pay money?", that he had, he has given that  
19 evidence today, and I then suggested to him that his  
20 counsel put a similar proposition to Mr. Dermot Ahern in  
21 cross-examination, I am incorrect from a review of the  
22 transcript in relation to that.

23 .

24 If one looks at the proposition that was put in fact, by  
25 Mr. Cooney, in cross-examination in relation to this  
26 matter, the question in fact was "Did JMSE pay any money?",  
27 and that is what I should have put as having properly been  
28 put by counsel, and I am happy to acknowledge that that was  
29 incorrect and set the record straight in relation to  
30 that.

31 .

32 MR. COONEY: It is on page 64, and it is Question 248.

1

CHAIRMAN: Yes, I have that noted.

3

MR. COONEY: May I also point out that in his memo of the meeting he had with Mr. Murphy, Mr. Ahern set out specifically the three questions which he says he asked, the difference of recollection between Mr. Murphy and Mr. Ahern as to the terms of the question, but there is no difference, but they are both agreed that the questions were in one or other of those two different sets.

11

Q. MS. DILLON: Yes, I am not quite sure in relation to that. The witness has given evidence in relation to what he understands the first question of Mr. Ahern to have been.

16

And that is whether JMSE or any related company had paid any monies to Mr. Burke. The witness today, that was his evidence.

A. I am not sure, Ms. Dillon, whether he mentioned related companies or not. I am not fully sure about that.

Q. Yes. You were asked --

A. But certainly mentioned JMSE.

Q. But when you were asked earlier on to give your recollection of the question that was asked, I think you accept that the answer you gave was Mr. Ahern asked you "Did JMSE or any related companies pay any money to Mr. Burke?"?

A. He may have well have said that, I can't be 100 percent sure on that.

Q. No, I am sorry, you don't understand me, I am not suggesting that Mr. Ahern said that, I asked you for your

1 recollection earlier on today, for what you understood Mr.  
2 Ahern to say, and what you told me was that the first  
3 question that was asked by Mr. Ahern was "Did JMSE or any  
4 related companies pay any money to Mr. Burke?", and that  
5 was --

6 A. What I am saying, okay, I might have said that is correct,  
7 I am not one hundred percent sure if he mentioned  
8 associated companies or not.

9 Q. Yes. What cautioned this doubt, Mr. Murphy?

10 A. I am just not 100 percent sure, there is no cause.

11 Q. You didn't equivocate when the question was put to you  
12 initially?

13 A. Maybe not Ms. Dillon, but as I say, I am not one hundred  
14 percent sure, but he may well have, if he says he did, I  
15 accept it.

16 .

17 CHAIRMAN: Well now, just a moment. The witness is  
18 answering the question.

19 A. I am not sure, Ms. Dillon, I am not sure if he did say  
20 "associated companies".

21 Q. I am not suggesting that Mr. Ahern --

22 A. No, I am talking about my recollection.

23 Q. Yes, but your evidence earlier on when you were asked what  
24 Mr. Ahern had asked you was, your recollection of the first  
25 question was "Did JMSE or any associated company pay any  
26 monies to Ray Burke?", and you answered "no" to that  
27 question to Mr. Burke?

28 A. I may have been wrong, Ms. Dillon, I may inadvertently be  
29 wrong, I am not 100 percent sure whether he did mention  
30 associated companies or not.

31 Q. Even if Mr. Ahern had referred to associated companies, you  
32 would have been happy to, if I understand you correctly, to

1           have answered the question in the negative in the light of  
2           inquiries you had conducted?

3           A. Yes.

4           Q. Yes. Now, I think also at this meeting, with Mr. Ahern,  
5           you discussed a number of other issues?

6           A. We did.

7           Q. Would you like to outline for the Tribunal your  
8           recollection in relation to those issues?

9           A. I think --.

10          Q. Sorry, there was one question I did wish to ask in relation  
11          to a matter you had already averted to. You said that you  
12          asked Mr. Ahern who was going to interview the other  
13          participants?

14          A. That's correct.

15          Q. And you identified --

16          A. I didn't say, I asked him was --

17          Q. Were the other persons going to be interviewed?

18          A. Um.

19          Q. How did you know who the other participants were?

20          A. I mean at that stage I think that Mr. Connolly certainly in  
21          1996 had suggested to me that, suggested to me that I may  
22          have been at the meeting. I think in the other article  
23          was the other developer, I think we just put it all, Mr.  
24          Burke had been identified by Mr. Connolly as well.

25          Q. So that when you met Mr. Ahern on the 24th of June of 1997  
26          the three persons who might have been involved in this  
27          payment to Mr. Ray Burke in your mind were Mr. Ray Burke,  
28          Mr. James Gogarty and Mr. Michael Bailey?

29          A. Yes, but I think that there was four and on one occasion  
30          five people mentioned.

31          Q. But the persons about whom you conducted an inquiry, am I  
32          correct, with Mr. Ahern --

1 A. The people --

2 Q. If I could finish the question please, Mr. Murphy? The  
3 persons about whom you conducted an inquiry to Mr. Ahern  
4 were Mr. Michael Bailey, Mr. James Gogarty and Mr. Ray  
5 Burke?

6 A. Correct.

7 Q. Did you not raise issue in relation to any other persons?

8 A. I did, yes.

9 Q. What issues did you raise in relation to other persons?

10 A. He asked me, not in those first three questions, he asked  
11 me in the general conversation if myself or my father had  
12 ever met Ray Burke.

13 Q. To which you answered?

14 A. No.

15 Q. Now, you also said earlier on before we had the break, that  
16 Mr. Ahern told you that Mr. Dempsey was going to interview  
17 Mr. Bailey?

18 A. Correct.

19 Q. Mr. Ahern, as you know, has denied that he told you that,  
20 because he says he did not know and could not have known  
21 that?

22 A. Well, Ms. Dillon, as I have said, I have never met or had  
23 any correspondence with Mr. Dempsey. From what I read on  
24 the newspapers he is a very capable and able politician. I  
25 did not pluck his name out of the skies, into my  
26 statement. He did tell me that Mr. Dempsey was going to  
27 interview Mr. Bailey and I fully accept that that did not  
28 take place.

29 Q. But you are saying that Mr. Ahern told you that?

30 A. He did.

31 Q. And Mr. Ahern denies that?

32 A. That's correct.

1 Q. What statement are you referring to, Mr. Murphy? You have  
2 just said "I did not pick his name out of the sky into my  
3 statement"?

4 A. Sorry, it was in cross-examination, I gave the information  
5 to counsel in cross-examination, he - my counsel put it to  
6 him.

7 Q. And on your instructions?

8 A. Correct.

9 Q. Did you keep any note, record or memoranda in relation to  
10 these interviews with Mr. Ahern?

11 A. The phone calls?

12 Q. I am not asking about the phone calls at the moment, and  
13 the question I have put is did you keep any records,  
14 records or memoranda in relation to these interview?

15 A. No.

16 Q. But did you subsequently keep such notes in relation to  
17 telephone calls in September of 1997?

18 A. Correct.

19 Q. We will come on to deal with those in due course. Did you  
20 inform Mr. Ahern that you had checked with Roger Copsey,  
21 Frank Reynolds and your father in relation to any alleged  
22 payment?

23 A. I did.

24 Q. And were you in a position to give him a categoric  
25 assurance that no monies had been paid by JMSE or any  
26 related company?

27 A. I told him that in good faith at the time.

28 Q. Did you tell or outline to Mr. Ahern briefly, the  
29 circumstances in which you became a director in 1988?

30 A. I did. I told Mr. Ahern that there was a lot of turmoil  
31 in the companies in the 1988/'89 period. I think that it  
32 is probably a slight mistake in Mr. Ahern's statement. He



1 said in 1987, I didn't, I said in 1988, that I became a non  
2 executive director of the Irish companies and that I had no  
3 hand, act or part in any of the negotiations with Michael  
4 Bailey in the sale of the lands.

5 Q. I think in fact that what Mr. Ahern said in evidence was  
6 that you took over in 1987?

7 A. That's not correct.

8 Q. And did you not say that to Mr. Ahern?

9 A. Not at all.

10 Q. You say that Mr. Ahern is incorrect?

11 A. As I say, there are disputes between myself and Mr. Ahern  
12 over what was said, yes.

13 Q. Yes. And in relation to - do you remember discussing Mr.  
14 John O'Donoghue?

15 A. I do.

16 Q. And I think it was put to Mr. Ahern - can you tell us your  
17 recollection?

18 A. Not in that meeting actually no, it was - a discussion  
19 about John O'Donoghue was the second meeting.

20 Q. Was that the second meeting?

21 A. Um, because Mr. Ahern asked me if I read the papers and he  
22 was being tipped on the papers at the time to become  
23 Minister for Justice. He said that he mentioned that Mr.  
24 Gogarty was about to or had made a statement, something  
25 like that, to the Gardai on this matter, and he said that  
26 "of course Nora Owen is behind this and I am not", I don't  
27 know whether I should mention her name or not in this  
28 respect, but --

29 Q. No.

30 A. Okay. Well then, he said that the X was behind this and it  
31 was her parting shot at Fianna Fail.

32 Q. And you are aware that Mr. Ahern denies that he said, made

1 the comment that you have just referred to?

2 A. I am.

3 Q. Now, can I ask you in general for your overall recall in  
4 relation to this meeting?

5 A. In general? In what terms?

6 Q. Any terms, anything else you remember?

7 A. I do. I remember specifically the Business Post articles,  
8 the two or three Business Post articles, pointing out to  
9 Mr. Ahern that nearly all or part of all of these articles  
10 was absolute lies. He mentioned Mr. Frank Connelly, and  
11 again I am not using this Tribunal --.

12 Q. I would like you to stop, Mr. Murphy.

13 .

14 MR. MacENTEE: Sir, the Tribunal will recall that on the  
15 5th of May of this year, that's the 50th day of the public  
16 hearings, when Mr. Ahern TD, the Minister for Social  
17 Community and Family Affairs was being cross-examined, Mr.  
18 Cooney acting on behalf of Mr. Murphy --

19 .

20 CHAIRMAN: Just a moment, I want to get the day, Day 50,  
21 page?

22 .

23 MR. MacENTEE: 50 of the public hearing.

24 .

25 CHAIRMAN: Page?

26 .

27 MS. DILLON: 86, 87.

28 .

29 CHAIRMAN: Thank you. Now, Sir, we are all equipped with  
30 the same gear.

31 .

32 MR. COONEY: Sorry, it starts at page 84.

1 .

2 MR. MacENTEE: Sorry, I gave his direct evidence on that

3 day, and he was cross-examined by Mr. Cooney - sorry, by

4 Mr. Cush on the 9th of July, but in any event it was put to

5 Mr. Ahern that in the course of the conversation between

6 Mr. Ahern and Mr. Murphy Jnr., at the hotel at Heathrow

7 which we have just been hearing about, that Mr. Ahern had

8 said to Mr. Murphy, certain things which were highly

9 defamatory of Mr. Connolly and capable of putting Mr.

10 Connolly's life at risk.

11 .

12 Mr. Ahern, the Tribunal will recall, denied having said

13 those defamatory things about Mr. Connolly, and he further

14 said that he, Mr. Ahern, did not have the information

15 grounding these allegations and never had had that

16 information, and therefore was unlikely, was not in a

17 position to have said what he is alleged to have said to

18 Mr. Murphy.

19 .

20 I have - then Mr. Cush cross-examined Mr. Ahern - no,

21 that's not right, is it? Yes, Mr. Cooney cross-examined

22 Mr. Ahern but Mr. Connolly gave evidence, and he denied the

23 substance of those matters, the substance, I think the

24 Tribunal gave him an opportunity to do so very promptly.

25 .

26 Mr. Ahern was cross-examined in July, and it was not -

27 sorry, Mr. Connolly was cross-examined in July and it was

28 not contended in cross-examination on behalf of Mr. Murphy,

29 that the substance of what had been put to Mr. Ahern in

30 cross-examination was true or that Mr. Connolly's denial of

31 it was false.

32 .

1 Now, whilst I appreciate that it is proper that the fact of  
2 this conflict between Mr. Ahern and the witness can be  
3 investigated in the events that have happened, and having  
4 regard to the history of this subject before the Tribunal,  
5 I respectfully submit, that any further investigation of  
6 this matter should be done in words and in a manner that  
7 doesn't give further currency to the substance of what is  
8 alleged to have been said by Mr. Ahern and of course denied  
9 by Mr. Ahern in those circumstances.

10 .

11 It has been denied by Mr. Ahern, it has been denied by Mr.  
12 Connolly. The Murphy interest has not sought to  
13 cross-examine, to cross-examine Mr. Connolly on the  
14 substance and he is, Mr. Connolly is entitled to have this  
15 Tribunal, as I am sure Your Lordship, the Chairman is very  
16 anxious to do, he is entitled to have his constitutional  
17 right to safety and to his reputation vindicated and  
18 protected, insofar as that is possible.

19 .

20 So I am suggesting that the Tribunal might consider that  
21 the appropriate way to vindicate his constitutional right  
22 to this regard, is to rule that the irresponsible  
23 allegations made against Mr. Connolly, for it now appears  
24 from the course of the proceedings, that that is accepted  
25 as being so, should not be further repeated.

26 .

27 MR. COONEY: May I address you on this, Mr. Chairman?

28 .

29 CHAIRMAN: Yes. I would, I would hope in diplomatic  
30 terms?

31 .

32 MR. COONEY: As always.

1

CHAIRMAN: I don't mean to me personally, I am talking about the witness concerned.

4

MR. COONEY: Yes, of course. I want to explain the context in which this arose. There is a difference of opinion between Mr. Murphy and Mr. Ahern as to some of the parts of the conversation that they had in the Crest Forte Hotel in London. And obviously as Mr. Murphy's counsel I was obliged to put to Mr. Ahern various matters and to explore any difference of recollection which appeared between them, some of them were of no significance, others of them were of some significance.

14

The, Mr. Murphy had instructed me that particular things were said about Mr. Connolly in the course of this conversation, that's all I am going to say about that at the moment. I had put these things to Mr. Ahern, and I started to put them to Mr. Ahern by asking him in general questions about his knowledge and relationship with Mr. Connolly, and Mr. Murphy had said he, Mr. Ahern, had told Mr. Murphy during the meeting in London.

23

Mr. Ahern agreed with me that he had referred to these matters about Mr. Connolly to Mr. Murphy when he met in London, now these were general matters about telephone conversation and so on. Of course Mr. Connolly's name arose in the context of the discussion Mr. Ahern and Mr. Murphy were having about the articles in the Sunday Business Post.

31

Now, there is no doubt about it that there was agreement

32

1 between Mr. Murphy and Mr. Ahern that the subject of Mr.  
2 Connolly was discussed between them. And there was also  
3 agreement about the earlier part of the conversation,  
4 namely about Mr. Connolly being in touch with Mr. Ahern by  
5 telephone and so on, and in particular Mr. Ahern agreed  
6 that, at page 85 and 84 he agrees that he was critical of  
7 the Sunday Business Post. Mr. Ahern said that, and that he  
8 was critical of the author of the articles, and Mr. Ahern  
9 said he accepted that. And then he agrees that --

10 .

11 CHAIRMAN: Just a moment, you are referring me to the  
12 transcript. I can't, I have page 84 open in front of me  
13 and I don't see anything of what you are saying.

14 .

15 MR. COONEY: If you look at the previous page,  
16 Mr. Chairman.

17 .

18 CHAIRMAN: What question are we at in --

19 .

20 MR. COONEY: Yes, Question 336, Mr. Chairman.

21 .

22 CHAIRMAN: 336? Just a moment until I read it.

23 .

24 MR. COONEY: Yes. Okay? Well perhaps the topic begins  
25 generally at 335, Mr. MacEntee reminds me. And then the

26 --

27 .

28 CHAIRMAN: Well, this is a perfectly innocent topic at  
29 page 336. It is a matter as to when they met and what they  
30 said.

31 .

32 MR. COONEY: Then the cross-examination of Mr. Ahern and

1 this topic continues, he says at Question 339 and the  
2 answer is:

3 "I don't recall him making specific criticism of the  
4 articles but generally a criticism of the general media  
5 coverage in regard to his company.

6 Yes, he was extremely critical and denying of anything that  
7 was presented.

8 Question: Yes, I mean - well clearly I think it follows  
9 logically if he was critical of the media he would be  
10 primarily critical of the Sunday Business Post, I think you  
11 accept?

12 Answer: I would accept that.

13 Question: And ipso facto critical of the authors of the  
14 articles in that newspaper, Mr. Connolly in fact?

15 Answer: I accept that.

16 Question: He also said that you yourself had actually  
17 received a call from Mr. Connolly on your mobile phone, do  
18 you remember first of all that happening and you mentioning  
19 it to Mr. Murphy?

20 Answer: I don't remember mentioning it but I do remember  
21 the call". Can I just pause there for a moment?

22 .

23 CHAIRMAN: Sorry, I have lost it.

24 .

25 MR. COONEY: Sorry Question 342,

26 "Question: He also said you yourself received a call from  
27 Mr. Connolly on your mobile phone, do you remember that  
28 first of all happening and you mentioning it to Mr.

29 Murphy?" Mr. Ahern answered me, "I don't remember  
30 mentioning it but I do remember the call".

31 .

32 So here was Mr. Ahern confirming something Mr. Murphy

1 recalled from their conversation, namely at some stage  
2 before this conversation Mr. Ahern had received a call on  
3 his mobile phone from Mr. Connolly.

4 .

5 The matter proceeded, 343: "Mr. Murphy he can only  
6 remember this because you told him, obviously, and he will  
7 say you told him in fact you received a call from Mr.  
8 Connolly on your mobile phone just, you were either going  
9 on holidays or had just started on your holidays, is that a  
10 correct detail?

11 Answer: No. Maybe we are not talking about the same  
12 phone call, but I do recall a phone call from Frank  
13 Connolly to me on my mobile when I was actually canvassing  
14 a door in the Dublin West By-election.

15 Question: Okay. That is the only time Mr. Connolly  
16 spoke to you?

17 Answer: I can't say that now. I can't say.

18 Question: All right.

19 Answer: But I wouldn't have many conversations with  
20 him".

21 .

22 Then the question is: "Because again Mr. Murphy will tell  
23 the Tribunal that you told him that in response to this  
24 call from Mr. Connolly, you said to Mr. Connolly that if he  
25 had information about corruption he should go to the Guards  
26 with it. That's a likely response from you, is it?"

27 And he answers: "I did say that to Frank Connolly on one  
28 occasion on a mobile telephone, I am not all together sure  
29 if it was when I was going on holidays, I am more sure - I  
30 can't be. I have to say I can't recollect that, but I  
31 definitely did say to Frank Connolly when he put something  
32 to me in a telephone conversation, I said 'if you have any



1 information in this respect I suggest you go to the  
2 Guards".

3 And the next question is; "Clearly Mr. Murphy couldn't have  
4 known this unless you told him?"

5 Answer: That's fair enough".

6 .

7 Now, I don't want to read out the next matter, but the  
8 point of these questions, Mr. Chairman, was to establish  
9 that Mr. Murphy correctly remembered that he had spoken  
10 with Mr. Dermot Ahern about Mr. Connolly during the course  
11 of the meeting in the hotel in London. Let me just finish,  
12 and I will be very brief.

13 .

14 Now the other matters followed as a matter of course  
15 because Mr. Murphy instructed me that Mr. Ahern had said  
16 these things. Mr. Ahern denied them, so be it, that was  
17 the end of the matter. That was introduced not for the  
18 purposes of blackening Mr. Connolly's reputation but for  
19 the purpose of establishing whose recollection of what was  
20 said at this meeting between Mr. Ahern and Mr. Murphy was  
21 correct.

22 .

23 CHAIRMAN: Mr. Cooney, may I just --

24 .

25 MS. DILLON: If I might, Sir?

26 .

27 MR. MacENTEE: I am content that the Tribunal should  
28 reread this portion of the transcript, and particularly  
29 Question 348 and onwards and reach its own common sense  
30 conclusion as to why the Question 348 was asked.

31 .

32 Now, what I don't want, and what I have little doubt, the

1 Tribunal also does not want, is this exercise in character  
2 assassination and shooting the messenger should be  
3 repeated. That's my interest in this to be.

4 .

5 MR. COONEY: I have deliberately refrained --

6 .

7 CHAIRMAN: Just a moment. May I suggest, gentlemen, that  
8 this is capable of a relatively simple solution based on a  
9 principle. The Question 348 --

10 .

11 MS. DILLON: Sorry, Sir, I wonder could I interrupt  
12 briefly for a moment. It would seem to me that Mr.  
13 MacEntee's submissions are well founded. It seems to me  
14 the matter could be addressed in the following way: If I  
15 were to put the portion of the transcript in transcript  
16 form to the witness and ask him is it his recollection,  
17 read it to himself and is it his recollection in relation  
18 to Question 343 down to 350, that these matters were said  
19 to him by Mr. Ahern? And I will then put it to him that  
20 Mr. Ahern, vehemently denies that he made such an  
21 allegation. I wonder would that meet the situation? It  
22 would not be read allowed.

23 .

24 MR. MacENTEE: I am content that it should be dealt with  
25 that way. I only regret that some such a readily  
26 achievable device had not been used on the last occasion.

27 .

28 MR. COONEY: This is a matter of course --

29 .

30 CHAIRMAN: Just a moment, we are trying to resolve a  
31 problem in a courteous way, and I have every desire to  
32 assist all parties. If you are content I am satisfied

1 with that. The other version I had that was not very  
2 different, and I take the same view, that in the end of the  
3 day the pejorative words, if may use that phrase to  
4 encapsulate the words used of Mr., of your client, are  
5 matters which go to his credit. He denied them. Once  
6 that is done whoever received the answer is bound by it and  
7 that may not be repeated again. That's the same solution  
8 in a different form. And that's my view of it, and that's  
9 my view and a very strong view and I will not permit, it is  
10 not a question of, I will not permit 348, 349, to be  
11 actually repeated.

12 .

13 MS. DILLON: Yes, Sir. If I might just say in relation  
14 to - to these particular words, the issue here, Sir, is  
15 whether they were spoken by Mr. Ahern or not. It is  
16 nothing in relation to the credit, I understand it, of Mr.  
17 Connolly.

18 .

19 CHAIRMAN: I don't think they should be rehashed at all.  
20 The situation is a particular man's person has been, his  
21 reputation has been impinged, he has denied, there is only  
22 one way in which you can deal with that and that's not  
23 arising in this situation, and it is the proper way and  
24 that's the reason why that rule exists.

25 .

26 Now, I know that we have been lax in many rules, lax in  
27 many rules but where an individual's reputation is  
28 unjustifiably infringed I will not permit it.

29 .

30 I think, that's the way I look at it. I don't think the  
31 matter should be, certainly we can go down 347 as to  
32 whether these things were said or weren't and whether the

1 recollection is or is not correct. At that point the text  
2 stops.

3 .

4 MS. DILLON: Yes, if would could hand that portion of the  
5 transcript to Mr. Murphy, and before Mr. Murphy gets the  
6 transcript I should point out that insofar as this  
7 conversation is alleged to have occurred between Mr. Ahern  
8 and this witness, the matter at issue here is not the  
9 reputation of Mr. Connolly, that because that is not a  
10 matter that arises in this context in any fashion, what  
11 arises is whether these words were spoken or not and it  
12 arises in relation to the reliability of the evidence of  
13 this witness or the reliability of the evidence of Mr.  
14 Ahern and in no other fashion, Sir, in my submission.

15 .

16 CHAIRMAN: I totally agree with about that. But I will  
17 not have the reputation incidentally impugned of any person  
18 once that person has said --

19 .

20 MR. MacENTEE: Sir, I was confident that the Tribunal  
21 would so --

22 .

23 CHAIRMAN: That's a firm ruling. You can carry it out in  
24 anyway you like, but that ruling must be obeyed.

25 .

26 MR. MacENTEE: I am content with the suggestion made by  
27 Ms. Dillon.

28 .

29 MS. DILLON: I beg your pardon?

30 .

31 MR. MacENTEE: I am content that you proceed.

32 .

1 MR. MOHAN: Mr. Chairman, if I may make one point very  
2 briefly, looking after the interests of Mr. Ahern. It is a  
3 very brief point I may wish to make on his behalf, whether  
4 or not these comments or questions were put are germane is  
5 a matter for yourself, simply it is important to remember  
6 that in all of this, the questions were put to Mr. Ahern  
7 without his knowledge that such matters were going to be  
8 put, his denial is on the record, it is important to  
9 reiterate that on his part, and they are still his  
10 instructions to me and that he was both shocked and  
11 appalled that those questions were put to him. It's  
12 important to note that for the record.

13 .

14 CHAIRMAN: Whether they were put or not is something I  
15 have to make up my own mind about. The text, the end  
16 product which is contained in the subsequent answers which  
17 I have ruled out I will not permit to be aired again.

18 .

19 Q. MS. DILLON: Mr. Murphy, I want you to listen carefully.

20 .

21 MR. COONEY: I thought Mr. MacEntee wanted the remaining  
22 questions read out, and Ms. Dillon was going to do so, but  
23 you ruled --

24 .

25 MR. MacENTEE: What Ms. Dillon said was the document  
26 should be handed to the witness, that he should read it, he  
27 would be then asked what his recollection was as to whether  
28 those words had been said by Mr. Ahern or not, he could  
29 then answer, that it was his recollection that they were  
30 said or it was not his recollection, and that would be an  
31 end of the matter.

32 .

1 MR. COONEY: I now understand, Mr. Chairman, I am sorry.

2 .

3 Q. MS. DILLON: I had also suggested the witness would, of  
4 course, read it to himself it, would not be read out by  
5 the witness.

6 .

7 Mr. Murphy, you have been handed two pages of the  
8 transcript from Day 50, pages 86 and 87. I want you to  
9 commence reading at Question 347, and I want you to  
10 continue reading until the conclusion of Question 353, and  
11 I would like you to do that to yourself please and let us  
12 know when you are finished. (Document handed to witness  
13 and witness reads.)

14 A. Okay, Ms. Dillon. Yes.

15 .

16 CHAIRMAN: Now, just a moment, before anything. Ms.  
17 Dillon will ask you one or two questions, I don't know  
18 which, the answers to which are "yes" or "no", and will be  
19 so framed to be "yes" or "no", and no further addition may  
20 be added in relation to the context of Ms. Dillon's  
21 question. Let me be quite clear about that because I want  
22 to protect the ruling.

23 .

24 Q. MS. DILLON: Mr. Murphy, did Mr. Ahern make the comments  
25 as outlined in those two pages of transcript to you on the  
26 24th of June 1997 at your meeting?

27 A. Yes.

28 Q. You are aware that Mr. Ahern denies that any such comments  
29 were made?

30 A. I think that the answer is "I can't recall saying that  
31 here".

32 Q. You heard the Chairman's direction, Mr. Murphy.

1 .  
2 MR. COONEY: With respect, Ms. Dillon can't ask the  
3 witness to say something which is contrary to what's  
4 recorded in the transcript, that would be abusing the  
5 ruling which you have made, Mr. Chairman.

6 .  
7 CHAIRMAN: That sounds right, Ms. Dillon.

8 .  
9 MS. DILLON: "That is not correct", as a reading of the  
10 transcript clearly shows. The witness is being selective  
11 in giving one answer.

12 .  
13 CHAIRMAN: Sorry, can you give me the reference to the  
14 transcript?

15 .  
16 Q. MS. DILLON: Would the witness indicate the question  
17 number to which the answer is. I don't recall?

18 A. 348.

19 Q. And would the witness indicate the number of questions he  
20 has been requested, asked to read to himself. How many  
21 bear the answer "I don't recall"?

22 A. Yeah, that's the one the ruling was made on.

23 .  
24 CHAIRMAN: Answer the question.

25 .  
26 Q. MS. DILLON: Answer the question please, Mr. Murphy?

27 A. 343, was it?

28 Q. I have asked you whether the answer "I don't recall"  
29 appears anywhere else in relation to the portion of the  
30 transcript you have been asked to read?

31 A. Could you just remind me again, the portion?

32 Q. 347, Mr. Murphy, to 353?

1 A. Okay.

2 Q. Now, can you indicate to me in those where the answer is "I  
3 don't recall"?

4 A. "I can't recall".

5 Q. "I can't recall", how many questions are contained in that  
6 portion of the transcript, Mr. Murphy?

7 A. I am not with you, Ms. Dillon.

8 Q. Yes. Do you accept that Mr. Ahern denies the contents of  
9 the passage you have read?

10 .

11 MR. COONEY: Sorry, that is again a, that is not correct,  
12 Mr. Chairman. I don't want to open these things. If you  
13 look, very simple, if you look at the answers to Questions  
14 348, 349, there is a particular answer given there. Now,  
15 the question proceeded on the same topic but a different  
16 aspect and quite a firmer answer is given there by Mr.  
17 Ahern, I think that sums up the situation.

18 .

19 Q. MS. DILLON: I think Mr. Cooney is being utterly unfair to  
20 Mr. Ahern, but that's a matter for Mr. Cooney.

21 .

22 Now, insofar as that is concerned, as I understand your  
23 recollection, Mr. Murphy, you say that Mr. Ahern made those  
24 comments to you?

25 A. He did.

26 Q. And you don't accept that Mr. Ahern denies that he made  
27 those comments to you?

28 A. No.

29 Q. Can I ask you something that has puzzled me --

30 .

31 MR. MacENTEE: That is a matter for the Tribunal to  
32 construe, it is not a matter for this witness. What Mr.



1 Ahern said is there and it is your business and exclusively  
2 your business at this stage to decide what that means and  
3 what it is --

4 .

5 CHAIRMAN: That's absolutely correct. So we will pass  
6 from the subject altogether.

7 .

8 Q. MS. DILLON: Yes. Can I ask you, Mr. Murphy, you were  
9 circulated with a statement of Mr. Ahern prior to Mr. Ahern  
10 giving evidence; is that correct?

11 A. I was.

12 Q. And you saw fit following evidence by Mr. Gogarty to file a  
13 supplemental statement to the Tribunal furnishing alibi  
14 evidence in relation to your whereabouts on certain dates  
15 in May and June of 1989; isn't that correct?

16 A. Correct.

17 .

18 MR. COONEY: Chairman, we would be grateful if the  
19 Tribunal would not use "the alibi", it has particular  
20 connotations in law.

21 .

22 Q. MS. DILLON: Mr. Cooney first used the term "alibi". If  
23 he wants me to change it I am happy to change it.

24 .

25 Mr. Murphy, you filed a supplemental affidavit detailing  
26 your whereabouts in June of 1989?

27 A. I did.

28 Q. Having been circulated with the statement of Mr. Ahern you  
29 became aware, presumably, that there would be some  
30 difference between your recollection and Mr. Ahern's  
31 recollection?

32 A. I was, yes.

1 Q. Did it occur to you that you might give Mr. Ahern some  
2 notice of those differences by furnishing --  
3 .

4 MR. COONEY: This is a most unfair question, particularly  
5 in view of the ruling of the Supreme Court and the High  
6 Court recently, no witness to a Tribunal is obliged to  
7 furnish information in advance. This is a grossly unfair  
8 and improper question to ask of this witness.  
9 .

10 CHAIRPERSON: First of all --  
11 .

12 MS. DILLON: I reject the --  
13 .

14 CHAIRMAN: First of all, may I point out that it is not a  
15 proper reading of the Supreme Court ruling. The ruling is  
16 he can not be compelled, he can do so voluntarily if he  
17 wants to, and that is what the question is, and there is no  
18 need to protect the witness from a simple question like  
19 that.  
20 .

21 MR. COONEY: With respect, it is a most unfair question,  
22 Mr. Chairman, suggesting that he is --  
23 .

24 CHAIRMAN: I have ruled that it is not.  
25 .

26 MR. COONEY: I haven't finished my submission. It is a  
27 most unfair question to suggest to a witness that he is  
28 some way remiss in failing to provide written information  
29 of any sort to any Tribunal. He is under no legal  
30 obligation to do so, and to question him on the basis that  
31 he may be at fault in doing so is grossly improper.  
32 .

1 CHAIRMAN: He is perfectly entitled to say that "I had no  
2 obligation to do so", if he doesn't wish to use that he can  
3 answer it as he feels appropriate.

4 .

5 MR. COONEY: Then if he does he will be questioned "why  
6 didn't you say this?", and on and on, there is no end to  
7 it, but that illustrates the fundamental unfairness and  
8 impropriety of such a question and it should not be  
9 permitted with respect, Mr. Chairman.

10 .

11 MS. DILLON: I reject the allegation that I am being  
12 unfair or behaving in an improper fashion. Mr. Cooney may  
13 take it for as long as this goes on I will be rejecting all  
14 of those allegations. I do not see it as my function to  
15 respond in any other fashion to those allegations. I do  
16 not intend to do so. I do not consider the questions  
17 being unfair, particularly in the light of the situation  
18 that this witness --

19 .

20 MR. COONEY: Improper --

21 .

22 CHAIRMAN: Please do not interrupt counsel when they are  
23 addressing the Tribunal. Do not interrupt, Mr. Cooney,  
24 because to do so would be rude.

25 .

26 MS. DILLON: This witness elected to file a supplemental  
27 statement in relation to matters that he wished drawn to  
28 the attention of the Tribunal, and it occurs to me in the  
29 light of the fact that in relation to one aspect of this  
30 matter that's being inquired into he had seen fit to file a  
31 supplemental affidavit, in the light of the fact that he  
32 had received Mr. Ahern's statement and was aware of the

1 differences that would arise in relation to it, I was  
2 simply inquiring as to why he did not put Mr. Ahern on  
3 notice in relation to that, but if Mr. Cooney is unhappy  
4 with the line of questioning I am happy to move on, however  
5 due to the delays that - if I could just finish, Mr.  
6 Cooney?

7 .

8 MR. COONEY: It was an improper and unprofessional  
9 question to ask.

10 .

11 MS. DILLON: I reject the allegation that it was improper,  
12 and I reject the allegation that I am being  
13 unprofessional. I would like Mr. Cooney to let me finish  
14 making my submission before he responds. I do not  
15 interrupt Mr. Cooney. I should now tell you, Sir, in the  
16 light of what has transpired this afternoon I have at least  
17 another hour and a half with that witness. Unless you are  
18 prepared to sit until very late this evening I think we  
19 should adjourn until Monday?

20 .

21 CHAIRMAN: I think it might be a good idea, and we might  
22 cool down and the blow the froth go off the pint.

23 .

24 MS. DILLON: There is no need for Mr. MacEntee to return,  
25 as the issue will not be revisited due to the ruling by  
26 anybody else.

27 .

28 CHAIRMAN: Does that meet with your --

29 .

30 MR. MacENTEE: It does, totally, with no disrespect.

31 .

32 CHAIRPERSON: I'm adjourning until Monday at half past

1 ten.

2 .

3 MS. DILLON: Yes, Sir. There is a witness specially fixed  
4 for 10 o'clock on Monday and for, so for the benefit of  
5 those who will be coming he will take about 15-minutes.

6 Thank you, Sir.

7 .

8 CHAIRMAN: I will be here at 10 o'clock.

9 .

10 THE HEARING THEN ADJOURNED TO MONDAY, THE 6TH DECEMBER,  
11 1999.

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