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1 THE HEARING RESUMED ON THE 6TH OF DECEMBER, 1999, AS

2 FOLLOWS:

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4 CHAIRMAN: Good morning everyone. When you are ready Mr.

5 Gallagher?

6 .

7 MR. GALLAGHER: Mr. Kierans please?

8 .

9 MR. DURKIN: I appear for Mr. Kierans and I seek

10 representation.

11 .

12 CHAIRMAN: Certainly.

13 .

14 PAUL KIERANS HAVING BEEN SWORN WAS EXAMINED BY MR.

15 GALLAGHER AS FOLLOWS:

16 .

17 1 Q. Mr. Kierans, can you state your address please?

18 A. Carrickfree, Rocky Valley Drive, Glencormac, County

19 Wicklow.

20 2 Q. What is your occupation?

21 A. I am an Assistant Claims Manager.

22 3 Q. Do you remember 1991, can you say what you were employed as

23 at that time?

24 A. In 1991 I was employed as an Interim Loss Adjuster for AMEV

25 General Insurance Company.

26 4 Q. And did they have their offices in Temple Road in Blackrock

27 in Dublin?

28 A. Yes, they did at the time, yes.

29 5 Q. During 1991 did AMEV hold household insurance policy number

30 00032092 in the name of James and Anna Gogarty?

31 A. Yes.

32 6 Q. Did that policy cover buildings and contents of the

1 property at Renvyle, Shielmartin Road, Sutton, County

2 Dublin?

3 A. Yes.

4 7 Q. In early 1991 did your employers receive a claim for a

5 broken window and as a result did you call to the house at

6 Renvyle, Shielmartin Road, Sutton, to inspect the damage

7 and to adjust the loss?

8 A. Yes.

9 8 Q. Do you remember visiting the property?

10 A. I do.

11 9 Q. Can you tell the Tribunal what you found and who you spoke

12 to there?

13 A. I met an elderly gentleman at the time and inspected the

14 damaged window.

15 10 Q. What did you see when you got there?

16 A. Actually the window had already been repaired so I just saw

17 the newly instated window.

18 11 Q. Did you inquire as to what damage had occurred and how it

19 had been caused?

20 A. I did. According to my recollection I was advised that the

21 glass had failed to withstand storm force winds and had

22 cracked and shattered as a result.

23 12 Q. Can you recall where in the house this window was?

24 A. It was to the front of the house, facing onto the road and

25 indeed onto the coast.

26 13 Q. Was it at ground floor level or first floor level?

27 A. Ground floor.

28 14 Q. I see. You have provided a statement to the Tribunal in

29 which you have outlined the configuration of the window in

30 figure one; is that correct?

31 A. That is correct.

32 15 Q. You said that the window in question was constructed in

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1 casement fashion with a very large fixed glass section and  
2 two small top hung openings, opening sections to one side,  
3 one on top of the other?

4 A. Excuse me. That's correct.

5 16 Q. Now, when you visited the premises what did you find? Had  
6 that window been replaced by a different window or what had  
7 happened?

8 A. Yes, the largest pane of glass in the window had been  
9 replaced by two smaller glasses, smaller panes of glass,  
10 roughly 50 percent each the size of the large panel and the  
11 centre timber member had been installed to stabilise the  
12 window.

13 17 Q. I think you said that they would have measured  
14 approximately 3.5 to 4 metres by 1.82 metres?

15 A. Yes. It was a very large window.

16 18 Q. That was the large window?

17 A. Yes.

18 19 Q. And was it your recollection that that very large window  
19 measuring, say something of the order of four metres, had  
20 been replaced by something approximately half that width?

21 A. Yes.

22 20 Q. And a support timber had been installed, as it were, in the  
23 centre of the pane to provide support; is that correct?

24 A. To provide extra stability, yes.

25 21 Q. Yes; and you have shown in figure 2, the window as you  
26 found it when you visited the premises?

27 A. Yes.

28 22 Q. When approximately in November did you visit the premises,  
29 can you recall?

30 A. It was early November. I don't recall the specific date.

31 23 Q. And can you indicate how long after the window had been  
32 repaired, did you call, approximately?

1 A. I don't recall.

2 24 Q. Now, having, you visited the site as you have told us, you

3 spoke to an elderly gentleman, were you satisfied about the

4 bona fides of the claim?

5 .

6 MR. COONEY: Sorry now, that's, sorry --

7 .

8 CHAIRMAN: That is I agree.

9 25 Q. MR. GALLAGHER: Did you make contact with the glassier?

10 A. I recall making contact with the glassier to discuss the

11 valuation, yes.

12 26 Q. And can you recall what he told you?

13 A. It would have been a standard discussion, just to assess

14 the cost of reinstating the glass. I don't recall the

15 exact discussion.

16 27 Q. Can you recall who gave you the name of the glassier?

17 A. The glassier would have been provided in the file by means

18 of an invoice or estimate.

19 28 Q. And who would have provided that information?

20 A. The insured.

21 29 Q. I see. Now, having spoken to the glassier and having

22 visited the scene, did you form any view?

23 A. I formed the view that the damage was in accordance with

24 the terms and conditions of the policy, and organised to

25 pay the amount.

26 30 Q. Yes. I think that documentation has been destroyed in the

27 intervening years in accordance with AMEV standard practice

28 of documentation retention and destruction, but you have

29 some information obtained from computer records?

30 A. That's correct.

31 31 Q. Can you tell the Tribunal what those computer records show?

32 A. They show minimal details, essential details; they show the

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1 amount which was raised in payment of a cheque, they show  
2 the details, the transactions of cover, and they show dates  
3 according to those specific events.

4 32 Q. And have you looked at those records?

5 A. Yes.

6 33 Q. And can you say how much was paid on foot of the claim in  
7 question?

8 A. £850.15.

9 34 Q. Can you say when that claim was paid?

10 A. Yes, late 1991.

11 35 Q. Is there any other information you have, Mr. Kierans, which  
12 you think might be of assistance to the Tribunal?

13 A. No.

14 .

15 MR. GALLAGHER: Thank you.

16 .

17 THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. COONEY:

18 .

19 36 Q. MR. COONEY: May it please you, Mr. Chairman.

20 Mr. Kierans, I appear for what are called the "Murphy  
21 Interests" in this Tribunal. And the householder in  
22 question, Mr. Gogarty, has told the Tribunal that on, about  
23 7 p.m. on the 30th - on the 29th or 30th of October he was  
24 sitting in his front living-room when shots were fired  
25 through his front window. He also told his Tribunal that  
26 he is neither ruling in nor out my clients participation in  
27 this alleged crime. I want to ask you, first of all Mr.  
28 Kierans, did Mr. Gogarty say anything to you about shots  
29 being fired through the window, which your company paid  
30 for?

31 A. No.

32 37 Q. Did he say anything to you about damage to his carpets and

1 furniture inside in his room?

2 A. Not to my recollection, no.

3 38 Q. Yes; but the policy which your company had was a  
4 householder policy which would cover damage to contents as  
5 well as damage to structure; isn't that right?

6 A. That's right.

7 39 Q. And if his carpets or furniture had been damaged,  
8 presumably to an acceptable extent, a claim would have been  
9 valid under the policy in respect of that damage?

10 A. It would have if it fell within the terms and conditions of  
11 the policy, yes.

12 40 Q. Yes, I see. But in fact your recollection is that there  
13 was no claim by Mr. Gogarty in respect of alleged damage to  
14 his carpets or to his furniture; is that right?

15 A. That's right.

16 41 Q. Yes. I see. You spoke to the glassier you think. Is that  
17 a recollection that you have?

18 A. I did speak to the glassier.

19 42 Q. I see. I see. Can you recall where the glassier operated  
20 from, when you spoke to Mr. --

21 A. No, I would just have obtained his number and name from an  
22 estimate or invoice I would have been and/or invoice which  
23 would have been on the file.

24 43 Q. You spoke to him by telephone, did you?

25 A. By a telephone call, yes.

26 44 Q. I see. The purpose of speaking to him, was to confirm that  
27 he had replaced the window and had incurred, and had  
28 furnished a bill in the sum sought to the insured?

29 A. Yes.

30 45 Q. Were you told at all, it doesn't appear from your statement  
31 of this Mr. Kierans, that the Garda were called to  
32 investigate this incident?

1 A. It is my recollection that the Gardai were not involved.

2 46 Q. Yes. In other words, you don't recollect the householder

3 telling you that the Gardai had been called to investigate

4 this incident?

5 A. That's correct.

6 47 Q. I see. Thanks.

7 .

8 THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. CALLANAN:

9 .

10 48 Q. MR. CALLANAN: Mr. Kierans I think as you have said, when

11 you called out, the damage had been repaired?

12 A. Yes.

13 49 Q. And you can't really say how close to the occurrence of the

14 damage your visit took place?

15 A. No.

16 50 Q. And I think when the matter first became an issue in the

17 Tribunal, McCann Fitzgerald made inquiry of the Royal and

18 Sun Alliance which had acquired the business of AMEV, and

19 they replied by a letter of the 16th of March, 1999, from

20 Good Murray Smith which was produced in the course Mr.

21 Gogarty's evidence. You may or not be aware of that?

22 A. Yes, I am aware of that.

23 51 Q. Yes; and when you spoke to or I should say to you that the

24 evidence of Mr. Gogarty was that he believed that shots had

25 been fired at the window and that the window subsequently

26 gave way in heavy winds. You were only told the latter

27 part of that, so far as you can recollect?

28 A. Yes.

29 52 Q. And just in relation to the point of the damage to the

30 furniture and carpets, I think Mr. Gogarty's evidence was

31 that he had looked after that himself, so it wouldn't have

32 been something he would have raised with you.

1 .

2 MR. COONEY: I have looked at his evidence in Volume 19.

3 Now, if I am reading it correctly, there is no such

4 evidence, but in fact he said that he suffered a total

5 damage amounting to 2,000, Mr. Chairman, between window,

6 carpets and furniture.

7 .

8 MR. CALLANAN: I think it is quite clearly on the

9 transcript, I believe at around page 14 on Day 19.

10 .

11 CHAIRMAN: Mr. Cooney, my recollection, and I stand

12 entirely subject to correction by the transcript, was that

13 he gave evidence that the shot, shall I say, fractured or

14 had a star on the window, that he put a wooden - some sort

15 of a wooden casing or covering up; that night or within a

16 short period, a storm blew up, the thing collapsed in on

17 top of the room, or when I say "on top of the room" and

18 glass and some debris, wet, happened on to the carpet

19 and/or I can't remember whether he was talking about a

20 couch.

21 .

22 MR. COONEY: He mentioned a dining-room suite.

23 .

24 CHAIRMAN: A dining-room suite, is that what it was?

25 .

26 MR. COONEY: Yes.

27 .

28 CHAIRMAN: That was my broad recollection of what was

29 said. My recollection, you are correct in saying that he

30 talked about £2,000 worth of damage.

31 .

32 MR. COONEY: He said the total damage was £2,000. And of



1 course you will also recall, Mr. Chairman, that it was the  
2 following morning after this was alleged to have occurred  
3 that the Guards visited the scene and described, visited  
4 his house and --

5 .

6 CHAIRMAN: The Guards gave the description which I have  
7 just given about the star, the star like wound, if I may  
8 call it that, in the pane at the very top. When I use the  
9 phrase "star like" I am talking about something not much  
10 bigger than the top of my finger.

11 .

12 MR. COONEY: Yes.

13 .

14 CHAIRMAN: Or something of that order.

15 .

16 MR. COONEY: It was a coned shape.

17 .

18 CHAIRMAN: You used the phrase "cone shape".

19 .

20 MR. COONEY: In fact, I think that is the word used in the  
21 Garda statement, Mr. Chairman, without cracks.

22 .

23 CHAIRMAN: Yes.

24 .

25 MR. COONEY: If I remember correctly.

26 .

27 MR. GALLAGHER: Sir, the reference that you mentioned is  
28 to be found on Day 19 at page 21. In answer to a question,  
29 I think from Mr. Cooney. I think Mr. Cooney was  
30 questioning the witness at that time, Mr. Gogarty says as  
31 follows: "Well, at the time there were inspections, at  
32 least two inspections, the first was as I say, generally

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1 what you are talking about and then overnight, overnight, I  
2 had to put up timber against the window and it was dreadful  
3 weather at the time and I didn't make a good job of it.  
4 What happened was the wind was blowing from the southwest  
5 during the night and the whole window came in and crashed  
6 in, that was what the situation was, I understood that was  
7 being forensically examined. At this time the whole window  
8 was in and on the carpets. That is my recollection of  
9 it".

10 That, I think, is the reference that you are referring to.

11 .

12 CHAIRMAN: That is the whole passage, yes.

13 .

14 CHAIRMAN: Yes Mr. Callanan.

15 .

16 MR. CALLANAN: I am sorry. I am finished, I am finished.

17 Thank you.

18 .

19 CHAIRMAN: Nobody else wants to say anything? Thank you

20 very much for coming down, it is much appreciated. If you

21 have no documents to leave behind you for us? Thank you

22 very much, Sir.

23 .

24 THE WITNESS THEN WITHDREW.

25 .

26 MR. DURKIN: Thank you for facilitating my client on

27 Monday.

28 .

29 CHAIRMAN: Not at all, no problem.

30 .

31 MR. GALLAGHER: Mr. Mohan doesn't appear to be here, Sir.

32 .

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1 CHAIRMAN: I will rise.

2 .

3 MS. DILLON: Mr. Ahern is here, I think Sir.

4 .

5 MR. AHERN: Mr. Mohan should be present.

6 .

7 CHAIRMAN: I will rise for five minutes.

8 .

9 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

10 AGAIN AS FOLLOWS:

11 .

12 MS. DILLON: Mr. Joseph Murphy please?

13 .

14 CHAIRMAN: If you just hold on a moment, there is a  
15 document that is being handed to Mr. Ahern, solicitor for  
16 Mr. Ahern.

17 .

18 MS. DILLON: I am sorry Sir.

19 .

20 CHAIRMAN: It is just a matter of one moment while the  
21 copy is being made.

22 .

23 MR. COONEY: Mr. Chairman, while you are waiting, could I  
24 just refer to the transcript on, of the last day; there is  
25 a small typographical error in it, but it does change the  
26 meaning of a sentence radically.

27 .

28 CHAIRMAN: Yes?

29 .

30 MR. COONEY: Could I just perhaps identify it. It is on  
31 page 97.

32 .

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1 MS. DILLON: Which date, Mr. Cooney?

2 .

3 CHAIRMAN: The last day.

4 .

5 MR. COONEY: The last day, Volume 111. Yes, it is on

6 question 403 and 404. Mr. Murphy was being asked at

7 question 403, and in response to that question, and the

8 question "And did Mr. Reynolds respond to your request?

9 Answer: He did". Then the question is "can you tell us

10 what that response was? Answer: He said there was in

11 payment in the cheque journal book of £40,000 at that

12 time".

13 .

14 CHAIRMAN: It should be "no payment".

15 .

16 MR. COONEY: It should be "no" instead of "in".

17 .

18 CHAIRMAN: "No payment" obviously.

19 .

20 MR. COONEY: "No payment" obviously. What he said was, he

21 said there was "no payment in the cheque journal book of

22 £40,000 at that time". Clearly what Mr. Murphy said was

23 that there was "no payment". It is just a small error.

24 .

25 CHAIRMAN: Ms. Dillon, do you agree?

26 .

27 MS. DILLON: Yes, I agree with that. That was Mr.

28 Murphy's evidence.

29 .

30 CHAIRMAN: We will make that in the transcript.

31 .

32 MR. COONEY: Thank you.

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1 .

2 CHAIRMAN: In the official version, it should be amended.

3 I will do that. Let's go on now. Mr. Mohan is coming in

4 now. Right Ms. Dillon, are you ready? Yes?

5 .

6 MS. DILLON: Mr. Joseph Murphy please.

7 .

8 JOSEPH MURPHY JNR. HAVING BEEN ALREADY SWORN RETURNS TO THE

9 WITNESS-BOX AND CONTINUES TO BE EXAMINED BY MS. DILLON AS

10 FOLLOWS:

11 .

12 MR. MOHAN: My apologies, Mr. Chairman.

13 .

14 CHAIRMAN: Accepted, Mr. Mohan.

15 .

16 53 Q. MS. DILLON: Good morning Mr. Murphy?

17 A. Morning.

18 54 Q. Today I want to finish the first meeting you had with Mr.

19 Ahern, deal with the telephone conversation you had

20 following that with Mr. Michael Bailey and your second

21 meeting with Mr. Ahern and the telephone communications in

22 September of 1997. Just to indicate to you where we are

23 going. On Friday we had, you had said, I think or that

24 there had been figures mentioned by Mr. Ahern?

25 A. Correct.

26 55 Q. And can you just remind me again about what those figures

27 were?

28 A. 40, 60, 80.

29 56 Q. And I think you had been aware that the, some of the

30 allegations in the newspapers were that payments by JMSE

31 had been matched by payments from a builder?

32 A. Correct.

1 57 Q. And when you were dealing with the figures of 40, 60 and 80  
2 was it your view of those figures that they were the global  
3 figures; in other words, the payment from the builder and  
4 the alleged payment from JMSE?

5 A. He mentioned those three figures. I mean he did qualify, I  
6 think I said that 80,000 is a lot of money. I think I  
7 specifically commented on that. I think that he has, in  
8 his evidence admitted that what he said to me, to be fair I  
9 think there are rumours going about another payment to Mr.  
10 Burke and I specifically asked him other than the money he  
11 received at that meeting and he said "yes".

12 58 Q. Yes. You had been aware in the newspapers that the  
13 figures, or were you aware that the figures that were being  
14 talked about were figures of 30, 60 and 80 or 40, 60 and  
15 80, I beg your pardon?

16 A. 40, 60 and 80 are the figures that he mentioned to me.

17 59 Q. Yes?

18 A. I think 40, and yes 60, 80 they may well have been  
19 mentioned in the papers as well.

20 60 Q. Yes; and you were aware that the allegations in the  
21 newspapers in or around that time was that the payment,  
22 alleged payment by JMSE was matched by a payment from a  
23 builder?

24 A. Correct.

25 61 Q. So in dealing with the figure of £80,000, it was your  
26 understanding, insofar as you considered it at all, that  
27 the payment of 80 was an alleged payment of 40 from JMSE  
28 matched by a 40 payment from a builder?

29 A. Well, at the time that was what was being said in the  
30 newspapers, but as I said, Mr. Ahern said that there was  
31 rumours going around about another payment about somebody  
32 else, by somebody else and I specifically asked him was

1 that other than monies received at that particular meeting  
2 and he said "yes", I think his, in his evidence he says  
3 that as well.

4 62 Q. Yes; but what I was asking you in dealing with the figures  
5 of 40, 60 and 08, were they the accumulative figures you  
6 were dealing with or were they to be doubled up again? In  
7 other words, was the payment of £40,000 a £20,000 and a  
8 £20,000?

9 A. They are the figures he mentioned to me. 40, 60 and 80.  
10 That is what he said to me.

11 63 Q. Yes; but when you were dealing with the figure of £80,000;  
12 in your own mind did you understand that to mean £40,000 as  
13 alleged from JMSE and £40,000 from the builder?

14 A. Well, I didn't know. He clarified it. He said to me that  
15 to be fair that there was rumours going around about  
16 another payment from a different source than the people  
17 that were at that meeting.

18 64 Q. Right.

19 A. So --.

20 65 Q. So I think that Mr. Ahern also gave evidence that you had  
21 said that you were unhappy with the sale to Mr. Michael  
22 Bailey, that you considered it to be an under-value?

23 A. I did not.

24 66 Q. Mr. Ahern wasn't challenged on that?

25 A. No. What I said I was unhappy about the arbitration, the  
26 figures that Mr. Bailey had put on the arbitration. I  
27 think -- I may well have said "330" or something in my  
28 statement, but I think the real figure was" 600. I said I  
29 wasn't happy with that, I think I could well have said used  
30 the words "try on" or whatever.

31 67 Q. Mr. Ahern's evidence had been at question 29, that you were  
32 unhappy with the sale of the lands to Mr. Bailey, that you

1 regarded them as being sold at an under-value?

2 A. Not at all. Not at all.

3 68 Q. You disagree with Mr. Ahern in relation to that?

4 A. Yes.

5 69 Q. I think Mr. Ahern also gave evidence to say that your

6 father had no hand, act or part in the company since 1982

7 and wasn't involved in the business?

8 A. He wasn't involved in the business. He had retired I

9 think, I think I told Mr. Ahern that he had retired in 1982

10 but I would have told him that the turmoil period in 1988

11 which inadvertently he has put in his statement as 87, but

12 obviously we know that it was '88. I would have said that

13 he may have come back in for a short time then, but I would

14 agree that I told him he had retired in 1982, yes.

15 70 Q. And Mr. Ahern has also noted that you said that there was

16 no point or benefit to your company in giving money to a

17 politician for lands that they were selling or that they

18 did not own?

19 A. That's correct.

20 71 Q. And you agree with that?

21 A. I do.

22 72 Q. And Mr. Ahern also gave evidence about the first meeting to

23 say that you raised the issue of the joint venture with Mr.

24 Bailey and that you denied that there had been in fact any

25 joint venture?

26 A. Yes; but this was in the context of discussions about Mr.

27 Connolly and in the articles that; before I go, I know that

28 the Chairman has made a ruling on a certain issue here, so

29 when we discuss Mr. Connolly, of course I will abide by

30 that ruling; but it was in the context of discussing these

31 articles and my pointing out to Mr. Ahern the, what I

32 consider to be the lies, total or partial lies in all of



1 these articles. I brought up that I had spoken to Mr.  
2 Connolly in December '96 and that he had said when I told  
3 Mr. Connolly that it seemed ludicrous to suggest that we  
4 would pay money to a politician as a bribe for planning for  
5 lands that we were selling. I told him that Mr. Connolly  
6 then had put the joint venture thing to me, yes.

7 73 Q. Yes; that doesn't seem to accord completely with Mr.  
8 Ahern's recollection in relation to that matter. I think  
9 it was, it was put to Mr. Ahern in cross-examination that  
10 you had asked the three directors; Mr. Murphy Snr., Mr.  
11 Roger Copey and Mr. Frank Reynolds if they knew of any  
12 payments to Ray Burke and they all had confirmed to you  
13 that they did not do so, that they did not know of any such  
14 payments; did that arise?

15 A. Yes. Yes.

16 74 Q. And I think that it was also put at question 268 that  
17 inquiries had been made from both Mr. Murphy Snr., Mr.  
18 Roger Copey, Mr. Frank Reynolds and the other three  
19 directors if they knew of any payment to Mr. Ray Burke and  
20 they did not know of any payment to Ray Burke; could you  
21 just tell us who the other three directors were?

22 A. No, they were the three directors.

23 75 Q. Yes?

24 A. The people you mentioned.

25 76 Q. I will just refer to you question 268 on Day 50. Now,  
26 question 268 "he will say" that is referring to you, Mr.  
27 Murphy, "that he also told you that he had inquired from  
28 his father and Mr. Copey, Mr. Reynolds and the other three  
29 directors of the company if they knew about any payments to  
30 Ray Burke, and that they had said "no", but your  
31 recollection differs from that" and that was a matter that  
32 was put to Mr. Ahern by Mr. Cooney?

1 A. Well, I think the confusion in the "three directors" was  
2 that the three directors I did make my inquiries from was  
3 my father, Frank Reynolds and Roger Copsey. I think that  
4 whatever - I don't even know if there was, excluding  
5 myself, I don't even know if there was any other three  
6 directors. I think there is a confusion there with the  
7 word "three" and the amount of directors that I had asked  
8 about this matter.

9 77 Q. Yes. I think Mr. Grehan was also a director in 1989?

10 A. Not of the land owning companies.

11 78 Q. But he was a director of JMSE in 1989?

12 A. He was, yes.

13 79 Q. And I had understood your evidence on Friday to be that the  
14 main search in relation to accounts and information was  
15 concentrated on JMSE?

16 A. That's correct, yes.

17 80 Q. Did you inquire from Mr. Grehan?

18 A. No.

19 81 Q. Was there any inquiry made of Mr. Grehan?

20 A. No.

21 82 Q. So, in so far as that is concerned, the only three persons  
22 from whom the inquiry was made was Mr. Copsey, Mr. Reynolds  
23 and Mr. Murphy Snr.

24 A. Correct.

25 83 Q. And in relation to Mr. James Gogarty, was any inquiry made  
26 of Mr. James Gogarty by anybody on behalf of JMSE?

27 A. No. I mean obviously relationships had totally broken down  
28 there at the time.

29 84 Q. Mr. Ahern also gave evidence that you said at that first  
30 meeting that Mr. Bailey had been in recent, in the recent  
31 past in contact with you; and I was just wondering whether  
32 that reference, first of all did it happen? Did you

1 remember saying to Mr. Ahern that Mr. Bailey had been in  
2 contact with you in the recent past?

3 A. Yes. I may well have, yes, sure I met him in the  
4 Burlington.

5 85 Q. And that was the meeting you were referring to, the meeting  
6 that had been set up which Mr. Gogarty did not attend?

7 A. Correct.

8 86 Q. That was the meeting you were referring to. I think there  
9 was also some conversation in relation to Mr. Gabriel  
10 Grehan and Miss Mary Harney?

11 A. Correct, yes. Yes, that's right.

12 87 Q. And that there was some discussion of an allegation that  
13 had been made, that £60,000 had been paid to Mr. Ray Burke  
14 for planning permission?

15 A. You are talking about my discussion with Mr. Dermot Ahern?

16 88 Q. Yes?

17 A. No, what I said to Mr. Ahern on that occasion was that he  
18 said, he said he told me that the only people privy to my  
19 meeting with him was Mr. Bertie Ahern and himself. I had  
20 received as I gave evidence earlier, a phone call from Mr.  
21 Grehan that morning, who gave me the impression that Mary  
22 Harney had been in contact with him knowing about the  
23 meeting, so I relayed this to Mr. Dermot Ahern.

24 89 Q. And in the course of that discussion concerning Mr. Gabriel  
25 Grehan or Ms. Mary Harney was the figure, or was the  
26 mention of £60,000 payment made at all?

27 A. No.

28 90 Q. Mr. Ahern has given evidence that, evidence that he had  
29 been told - sorry, Mr. Ahern gave evidence slightly  
30 different to that. Are you aware of that? You disagree  
31 with Mr. Ahern in relation to that? He said that it was  
32 said at that meeting, that you had said - I am getting all

1 confused myself. That you had said that there was an  
2 allegation in relation to the £60,000 payment, am I  
3 incorrect in that?

4 A. I have lost you a little bit.

5 91 Q. I have lost myself. I will come back to that in relation  
6 to that. Did you have a discussion concerning Mr. Michael  
7 McDowell or Mr. Tommy Broughan at that meeting, the first  
8 meeting?

9 A. Yes. They may well have been brought up, that Mr. Gogarty  
10 had been in contact with them. They may have been brought  
11 up, yes.

12 92 Q. Did you have, do you have a recollection of mentioning to  
13 Mr. Ahern that you were thinking of going to Mr. John  
14 Bruton about this entire matter?

15 A. Absolutely not. Mr. Bruton came up in another context, his  
16 name did come up in the conversation, I think in the last  
17 half an hour was dedicated. Mr. Ahern did most of the  
18 talking, about a particular, about a false, I must say  
19 false accusation that had been made about Mr. Ahern by some  
20 opposition TD, and he brought up Mr. Bruton in the context  
21 that, I think that Mary O'Rourke had eventually advised him  
22 to go to John Bruton and prove that the false allegation  
23 made about him was untrue. That is the context in which  
24 Mr. Bruton was brought up.

25 93 Q. And in Mr. Ahern's memorandum of that conversation he has  
26 noted you as saying that you were thinking of going to Mr.  
27 John Bruton about this entire matter, and again I just  
28 point out that Mr. Ahern was not cross-examined in relation  
29 to this.

30 .

31 MR. COONEY: Sorry, with respect Mr. Chairman, this seems  
32 to me like a cross-examination more than anything else.

1 .

2 CHAIRMAN: She is inquiring from the witness as to --

3 .

4 MR. COONEY: Pardon?

5 .

6 CHAIRMAN: What is his recollection --

7 .

8 MR. COONEY: I am merely making a legal submission to you,

9 Mr. Chairman, if you consider it has no merit, so-be-it. I

10 just want to submit to you, respectfully, this that seems

11 to me to be cross-examination. And it is cross-examination

12 now based, seemingly not on Mr. Ahern's sworn evidence but

13 on what was contained in a memorandum which he made of his

14 meeting with Mr. Murphy. That seems very like

15 cross-examination, but however, that is merely my

16 submission Mr. Chairman.

17 .

18 94 Q. MS. DILLON: The reference to Mr. Tommy Broughan and Mr.

19 McDowell and the reference to Mr. John Bruton are on

20 question 41 of Day 50 of Mr. Ahern's direct evidence. I

21 think at the end of the meeting Mr. Murphy, you exchanged

22 telephone numbers; is that correct?

23 A. Correct.

24 95 Q. And can you just confirm your work telephone number and

25 your home telephone number for the Tribunal?

26 A. Well, if you - I don't see why I should come out with my

27 home phone number in public.

28 96 Q. Not at all. I will hand you the memorandum in which Mr.

29 Ahern has noted the two numbers at the bottom and if you

30 want to confirm that they are in fact correct. It is on

31 the very last page of that memorandum, Mr. Murphy. There

32 are two telephone numbers at the bottom. Can you confirm

1 that they are correct?

2 (Memorandum handed to witness)?

3 A. They are.

4 97 Q. Thank you. I want to move on now to deal with a telephone

5 conversation that you had on either the 29th or the 30th of

6 June, 1997, with Mr. Michael Bailey. Which you referred to

7 when you met Mr. Ahern on the second occasion.

8 A. Correct.

9 98 Q. And can you tell me who initiated the telephone

10 conversation?

11 A. Mr. Bailey rang the JMSE offices in Santry, spoke to Mr.

12 Frank Reynolds. He did this on the Monday, so I think it

13 was the Monday the 31st. I am not sure now.

14 99 Q. The 30th of June?

15 A. The 30th of June right.

1 100 Q. Probably?

17 A. But it was on the Monday that Mr. Bailey rang the JMSE

18 offices; left his number again with Mr. Reynolds and asked

19 that I speak with him urgently.

2 101 Q. And did you?

21 A. I did.

2 102 Q. Did you telephone him?

23 A. I did, yes.

2 103 Q. And can you tell us what your conversation with Mr. Bailey

25 was about?

26 A. Mr. Bailey, I think, started off, said "hello" obviously,

27 who I was. And he said something like "this thing would

28 Gogarty is getting out of hand". He gave me the impression

29 that he was in contact with Mr. Gogarty. He told me that

30 he had been speaking to Mr. Bertie Ahern on the matter and

31 speaking to Ray Burke on the matter, that he was assuring

32 them that Mr. Burke was caught up in a dispute between two

1 old men. He said to me "listen" he says "I think one could  
2 settle this matter. Would you go 50/50 with that?" I said  
3 "absolutely not" that I had resisted Mr. Gogarty's  
4 blackmail up to now and that there was no way that I would  
5 be paying him any money. I said "why would you" he said  
6 "yeah, yeah. You are right. "Why would I? I have no  
7 reason to be paying him money" or whatever and he dismissed  
8 it. He said that "by the time I left Burke's house  
9 yesterday", which would have been the Sunday, "I left him  
10 in no doubt, no doubt that he was caught up in a dispute  
11 between two old men" and as he described it. He told me  
12 that he never gave money to Burke, only for political  
13 contributions in or around the time of elections.

1 104 Q. And in the course of that conversation that you had with  
15 Mr. Bailey, which was concerning the matters that Mr.  
16 Dermot Ahern had been speaking to you about; isn't that  
17 right?

18 A. That's right, yes.

1 105 Q. And did you on, this occasion discuss with Mr. Michael  
20 Bailey as to whether any monies had in fact been paid to  
21 Mr. Burke?

22 A. No. The conversation was, as I say, very quick on the  
23 phone. At this stage, with everything I was very, I was  
24 very guarded. The purpose of his conversation, phone call,  
25 I have just outlined. I did not ask him what happened at  
26 the meeting with Ray Burke, no.

2 106 Q. And was it your understanding of this meeting that there  
28 had been a three-way meeting between Mr. Ray Burke and Mr.  
29 Bertie Ahern?

30 A. That was my understanding of it at the time because as I  
31 said, he said he had been speaking to Mr. Ahern. He had  
32 been talking to Ray Burke, and that by the time he left

1 Burke's house yesterday, "I left him in no doubt", etc..  
2 So I thought that this meeting was a three-way meeting,  
3 yes, and I did tell that to Dermot Ahern, yes.

107 Q. Between Mr. Burke, Mr. Bailey and Mr. Ahern?

5 A. Yeah. Subsequently I found out that it was a phone  
6 conversation, obviously, with Mr. Bertie Ahern and Mr.  
7 Bailey, and that the meeting on the Sunday was only with  
8 Mr. Burke and Mr. Bailey, but I assumed at the time when he  
9 told me that he had been speaking to Mr. Burke and Mr.  
10 Ahern, I presumed that the two of them were at the meeting.

1 108 Q. And did you take any note of that conversation with Mr.  
12 Michael Bailey?

13 A. No.

1 109 Q. And did Mr. Michael Bailey say to you that he had been told  
15 at that meeting to "sort out Mr. Gogarty"?

16 A. He said to me that he thought that the matter could be  
17 sorted out with the payment of 100 to Gogarty, as I said,  
18 would I give 50, I said "No. I resisted his blackmail up to  
19 now. Why would you be paying" he said "right yeah". He  
20 dismissed it. He mentioned, I think he mentioned something  
21 about handshake again or something like that. But he  
22 dismissed it, you know.

2 110 Q. You see it was put to Mr. Ahern, and again it is from the  
24 transcript of Day 50, page 95 question 398 and question  
25 399. Question 398: "Now we are not moving back to a  
26 conversation that Mr. Bailey was referring to in the course  
27 of that conversation which he had with Mr. Murphy, are you  
28 with me still?"

29 Answer: No, no. Mr. Murphy intimated to me in this  
30 conversation he had with Mr. Bailey, that Mr. Bailey said  
31 he had had a three-hour meeting with Mr. Ray Burke and  
32 Bertie Ahern". And that accords with your recollection?



1 A. I did tell him that, yes.

111 Q. Question 399. Yes, all right. And he also said, referring

3 to Mr. Bailey, to Mr. Murphy, that at that meeting he was

4 told "to sort out Gogarty"

5 Answer: That wasn't said to me"?

6 A. No, no. As I said Mr. Bailey said that he thought that the

7 matter could be sorted. He wasn't, he didn't specifically

8 say that anybody at that meeting told him to sort it out.

112 Q. Yes. I don't really understand how Mr. Cooney would have

10 been in a position to put to Mr. Ahern that the

11 recollection of the conversation that you had with Mr.

12 Bailey was that Mr. Bailey told you that he was told at

13 that meeting to sort out Mr. Gogarty and you are saying

14 that that is not correct?

15 A. Could I have a look at that, please?

1 113 Q. Absolutely. Page 95 of Day 50, to be given to the witness,

17 please? (Transcript handed to witness)

18 If you see the sequence of questions, Mr. Murphy. The

19 relevant one is 399.

20 A. Sorry, the question is being put by Mr. Cooney and the

21 answer is Mr. Ahern, yeah?

2 114 Q. Yes, that's correct. The answers are by Mr. Ahern and the

23 questions are being put by Mr. Cooney. Presumably on your

24 instructions, Mr. Murphy, and at question 399 and there he

25 is referring to Mr. Bailey and "he also said to Mr. Murphy

26 that at that meeting," referring to the three-way meeting

27 between Mr. Burke, Mr. Ahern and Mr. Bailey,"he was told to

28 sort out Gogarty". Now, that presumably could only have

29 been put to Mr. Ahern on foot of instructions?

30 A. My recollection of that is that --

31 .

32 MR. COONEY: With respect Mr. Chairman, I don't think that

1 Ms. Dillon can ask a witness what instructions he gave to  
2 counsel.

3 .

4 MS. DILLON: I agree.

5 .

6 MR. COONEY: Just a moment. That is the first point.

7 Again, legally I would like to make a submission and I

8 don't want this submission to spiral into another slugging

9 match or row. I respectfully submit on legal grounds that

10 this is cross-examination and that cross-examination should

11 not be permitted of a witness who is being called to the

12 box. We do know that the procedure established by this

13 Tribunal, that Counsel for the Tribunal has the opportunity

14 to sweep up, as it were, after everybody else is examined.

15 I really don't think this is quite fair, Mr. Chairman. It

16 clearly amounts to cross-examination, in my respectful

17 legal submission, Sir.

18 .

19 MS. DILLON: Yes Sir, there is apparent inconsistency

20 between the cross-examination of Mr. Ahern by Mr. Cooney on

21 this issue and the direct evidence which has been given by

22 this witness. I am entitled to inquire into that

23 inconsistency in the same way as Mr. Cooney sought to

24 inquire into inconsistencies in relation to other witnesses

25 evidence. I am not doing it in any over bearing fashion.

26 I am simply asking him what his recollection of his

27 conversation with Mr. Bailey was and then I am putting to

28 him what Mr. Cooney put to Mr. Ahern and I am simply going

29 to ask him does he understand the distinction between the

30 evidence and can he give any explanation as to why the

31 evidence is different. I don't see that that is

32 cross-examination in anyway.

1 .  
2 MR. COONEY: There are two clear characteristics emerging  
3 from what Ms. Dillon has said which established beyond any  
4 doubt that she is cross-examining the witness. First of  
5 all she is, as she said, putting inconsistencies; that is a  
6 classic definition of cross-examination. Secondly, she is  
7 doing it because she thinks I did something similar. In  
8 other words, she is seeing herself in an adversarial role.

9 .  
10 If she sees herself in an adversarial role to me it follows  
11 automatically that she is an adversarial role to my witness  
12 in the witness-box. This is beyond any shadow of a doubt  
13 cross-examination. It has in fact been cross-examination  
14 for the last four days, Mr. Chairman.

15 .  
16 Again can I say, without in anyway rising the temperature  
17 in anyway, Mr. Chairman, that this is not in accordance  
18 with what is stated. The stated objectives in this  
19 Tribunal which is to bring out dispassionately and fairly  
20 the evidence of all of the witnesses. This is  
21 cross-examination. It is a continuation of  
22 cross-examination that has gone on for four days. I would  
23 respectfully point out to you, Mr. Chairman, here we are in  
24 the 5th day of Mr. Murphy in the witness-box, he hasn't yet  
25 been asked any questions relating to the nine page  
26 statement which he furnished to this Tribunal on the 16th  
27 of December, 1998. In specific response to the allegations  
28 contained in Mr. Gogarty's affidavit of six weeks earlier,  
29 of the 12th of October.

30 .  
31 Now, it seems to me to be passing strange, Mr. Chairman,  
32 that he is into the 5th day of evidence and he hadn't been

1 given an opportunity to answer in a straightforward way,  
2 the accusations which have been made against him by Mr.  
3 Gogarty. In my respectful submission, most of this  
4 cross-examination over a period of four, now into the 5th  
5 day has been designed to undermine Mr. Murphy's credibility  
6 instead of giving him an opportunity to state his case in  
7 answer to the accusations that he has had to live with for  
8 two years. That is not fair, in my respectful submission,  
9 Mr. Chairman, and fair procedures require that he should be  
10 given the same opportunity that any other witness has been  
11 given, particularly Mr. Gogarty.

12 .

13 MS. DILLON: Yes Sir, I reject the allegation that this  
14 witness is being treated unfairly. I am not  
15 cross-examining the witness. I am inquiring into a  
16 inconsistency in the evidence. No more, no less. It is  
17 not necessarily of any huge significance but it is  
18 nonetheless there. I think I would be derelict in my duty  
19 to you, Sir, if I didn't inquire into it.

20 .

21 This is a Tribunal of Inquiry into matters of fact. It is  
22 not an inquiry into witness statement versus witness  
23 statement. Witness statements are tendered for the purpose  
24 of circulation to put parties on notice of what matters may  
25 be called or addressed in evidence. The purpose of the  
26 circulation of a witness statement is not to lead the  
27 witness through that statement and no other evidence, it is  
28 to put affected parties on notice, and that that is the  
29 purpose of having a statement, witness statement.

30 .

31 There is no rule of procedure in this Tribunal or indeed in  
32 any other tribunal, that requires a witness be lead through

1 his statement. If Mr. Cooney wishes to look at the matters  
2 that I have dealt with in the last four days, bar one  
3 matter which I am now coming on to deal with, all matters  
4 that were adverted to by Mr. Murphy in his statement have  
5 in fact been dealt with by me. And Mr. Cooney is wrong do  
6 say that I have not dealt with those matters, those matters  
7 have been dealt with.

8 .

9 CHAIRMAN: Well, Ms. Dillon could we try and resolve this  
10 problem. Where there is inconsistency or where you note  
11 inconsistency, it seems you are entitled to say "Mr.  
12 Murphy, this is inconsistent with that? What is your  
13 explanation", whatever he his answer is pass from it. You  
14 have now found out what his view of the inconsistency are,  
15 which is reasonable and fair to understand, because we must  
16 find out what the facts are overall. He is giving one  
17 version, another version has been given earlier, there is  
18 inconsistency, if he wishes to respond to the inconsistency  
19 so be it, if he doesn't, so-be-it.

20 .

21 MR. COONEY: Classical, classical practice in  
22 cross-examination in a lis interpartes as you well know,  
23 Mr. Chairman, is to say to a witness "but your counsel  
24 didn't do that" it is a classic part of cross-examination  
25 in a lis interpartes. So-be-it whatever Mr. Chairman, I am  
26 not going to say anything more except this Mr. Chairman,  
27 Mr. Gogarty's evidence was, in respects, glaringly  
28 inconsistent, he wasn't cross-examined about these  
29 inconsistencies, and particularly with the same detail and  
30 if I may say so, with respect to Ms. Dillon, pernickity  
31 approach being adopted to this witness.

32 .

1 In my respectful submission, perhaps I am speaking a  
2 different language to everybody else in this Tribunal, that  
3 is blatantly and patently not fair. There is not equality  
4 of treatment being afforded to the witnesses, that appear  
5 before this Tribunal, Mr. Chairman.

6 .

7 MS. DILLON: I think for the record I should reject, on  
8 your behalf that there has been any unfairness or  
9 inequality of treatment of this or any other witness. I  
10 think that when Mr. Cooney submits to you, Sir, that this  
11 Tribunal has been unfair to a witness, then in fairness to  
12 the Tribunal he should refer to the transcript of the  
13 previous witness with whom he wishes to draw a comparison,  
14 so that the matter will stand completely on the record; it  
15 is not enough to stand up and make accusations of  
16 unfairness without substantiating those accusations. I am  
17 happy to deal with the witness, Sir, in the manner in which  
18 you have outlined, if that is satisfactory? I am no  
19 difficulty with that.

20 .

21 CHAIRMAN: I think this matter has gone on long enough and  
22 the problem has been aired. It has indicated, the witness  
23 has indicated that he doesn't accept the inconsistency or  
24 that there is inconsistency. We will pass from it and we  
25 will note the situation.

26 A. I would like, if I could Mr. Chairman, just to clarify it?

27 .

2 115 Q. MS. DILLON: Yes, Mr. Murphy?

29 .

30 CHAIRMAN: Certainly Mr. Murphy?

31 A. Thank you, Mr. Chairman.

3 116 Q. MS. DILLON: Yes, of course?

1 A. I think that the point that I want to make here is that Mr.  
2 Bailey may well have said that, at that meeting he was  
3 going to see if he could talk to Gogarty or whatever else,  
4 I may well have said this to Mr. Cooney. But the actual,  
5 he never indicated to me when he was putting the £100,000  
6 thing to me that that came from the meeting. I want to  
7 emphasise that point.

117 Q. Yes; and in that conversation with Mr. Michael Bailey, Mr.  
9 Michael Bailey suggested that you should jointly pay  
10 £100,000 to Mr. James Gogarty, i.e. £50,000 each; and you  
11 vehemently rejected that and said that you would not pay  
12 any such money to Mr. Gogarty?

13 A. Yes; and as I have just given in evidence, I asked Mr.  
14 Bailey why he would be paying and he said, I was right, and  
15 he dismissed it.

1 118 Q. In the light of the fact that you had in a very short time  
17 previously to that, been discussing with Mr. Dermot Ahern  
18 the fact that or whether or not any monies had been paid to  
19 Mr. Ray Burke, and in the light of the fact that Mr. Bailey  
20 was the purchaser of the North Dublin lands and in the  
21 light of the fact that you were aware, from the media  
22 speculation, that it concerned a builder and the purchase  
23 of the North Dublin lands; did it occur to you at all to  
24 ask Mr. Michael Bailey what is going on here, were any  
25 monies paid to Ray Burke?

26 A. I didn't know Mr. Bailey very well. I had met him on a  
27 couple of occasions, one briefly at the arbitration, and  
28 then in the Burlington and myself and Mr. Bailey were very  
29 guarded at that meeting. He was rushing on the telephone  
30 and I did not discuss what happened in the meeting with Ray  
31 Burke in that telephone call, no.

3 119 Q. Yes; it would appear to be the position, I mean I do not

1 know how Mr. Bailey obviously would have responded to you,  
2 Mr. Murphy, if you had made such a query from him, but  
3 certainly Mr. Bailey has accepted that he was at the  
4 meeting at which a certain sum of money was paid to Mr.  
5 Gogarty; and I am curious about this because this is your  
6 second meeting with Mr. Bailey, whom you know is one of the  
7 people who are involved in this alleged meeting with Mr.  
8 Burke; and I am curious as to why you simply didn't say to  
9 him "look, Mr. Bailey, you bought our lands, there is all  
10 of this allegation and trouble, we are supposed to have  
11 paid £30,000 to Ray Burke or £40,000 to Ray Burke or any  
12 amount of money to Ray Burke, we didn't pay it. Why are we  
13 being involved here?"

14 A. Are you talking about the phone call.

1 120 Q. I am just talking about why you wouldn't have made a simple  
16 ordinary query here, what is going on here, do you know  
17 about this when you are talking --

18 .

19 MR. COONEY: Is Ms. Dillon talking about the phone call?

20 .

21 MS. DILLON: On the phone call, yes, I said previously at  
22 the meeting he hadn't asked him the question. I was  
23 referring to the meeting in November of 1996, about which  
24 Mr. Murphy gave evidence on Friday, at which this topic was  
25 not discussed. And I am just saying now, you have the  
26 phone call with Mr. Bailey. It comes hot on the heels of  
27 your discussion in London with Mr. Dermot Ahern about an  
28 alleged payment to Mr. Ray Burke, you were satisfied that  
29 no such payment has been made and then Mr. Michael Bailey  
30 rings you he says "look, I have had a meeting with Mr.  
31 Bertie Ahern and Mr. Ray Burke, and I want to sort this  
32 out".



00033

1 .

2 MR. COONEY: That is a speech, Mr. Chairman, to the  
3 witness. It is an argument.

4 .

121 Q. MS. DILLON: Very good. I will rephrase the whole thing.

6 We will take it step-by-step; you had a meeting in  
7 November, 1996, with Mr. Bailey?

8 A. Yes, correct.

122 Q. That meeting lasted 45 minutes?

10 A. Correct.

1 123 Q. At that time you were aware that Mr. Bailey was the  
12 purchaser of the North Dublin lands?

13 A. I was.

1 124 Q. At that time you were also aware that there were various  
15 allegations about a payment to Mr. Ray Burke in connection  
16 with those lands?

17 .

18 MR. COONEY: Leading questions, Mr. Chairman.

19 .

2 125 Q. MS. DILLON: I am entitled to put leading questions. It  
21 is a Tribunal of inquiry. Is that correct?

22 A. That's correct, yes.

2 126 Q. And at that meeting did you not ask Mr. Bailey if he knew  
24 anything about those payments or any payments to Mr. Ray  
25 Burke?

26 A. I gave this evidence last week Ms. Dillon.

27 .

28 MR. COONEY: He hadn't finished his answer, Mr. Chairman.

2 127 Q. MS. DILLON: You did give this evidence last week, but Mr.  
30 Cooney has criticised what I was doing, I just want to take  
31 it in steps, Mr. Murphy. I don't want to be unfair to  
32 you.

1 You then have a conversation on the 30th of June of 1997  
2 with Mr. Michael Bailey and in that telephone conversation  
3 Mr. Michael Bailey tells you that he has had a three-hour  
4 meeting with Mr. Ray Burke and Mr. Bertie Ahern and he --.

5 A. No, as I said in my evidence, he said he had been talking  
6 to Bertie Ahern, and he had been talking to Ray Burke on  
7 this matter. I think at the end of conversation he said  
8 "by the time I left Burke's house yesterday" so I assumed  
9 that it was a three-way meeting.

1 128 Q. Yes. I am not challenging, dealing at all with whether  
11 there was or there wasn't a three-hour meeting, I am just  
12 talking about your telephone conversation with Mr. Bailey?

13 A. Yes.

1 129 Q. And on the day, or immediately previous to this telephone  
15 conversation, sometime previously, in the week previous you  
16 had met Mr. Ahern; isn't that right, on the 24th of June?

17 A. That's correct.

1 130 Q. And the topic of Mr. Ahern's conversation with you in  
19 London had been whether any monies had been paid by the  
20 Murphy Group of companies or JMSE to Mr. Ray Burke?

21 A. Correct.

2 131 Q. Right. And now you have a telephone conversation with Mr.  
23 Michael Bailey and Mr. Bertie Ahern and Mr. Ray Burke are  
24 mentioned in that; and what I am curious about, in the  
25 light of all of that, is why you did not say to Mr. Bailey  
26 "look, is there any truth in any of this"?

27 .

28 MR. COONEY: Sorry, no witness is here to satisfy  
29 counsel's curiosity. Perhaps Ms. Dillon would ask a  
30 question in a proper fashion. Her curiosity is quite  
31 irrelevant. It is a matter of establishing facts for your  
32 benefit, Mr. Chairman.

1 .

2 MS. DILLON: I am sure the Chairman might be curious as  
3 well.

4 .

5 CHAIRMAN: Just a moment. Just a moment. We are getting  
6 into tangles here. The witness has given evidence that at  
7 this point in time, I don't want to go any further than  
8 that, he had indicated no money had been paid by his firm.  
9 That's the starting point.

10 .

11 There are rumours around. Mr. Bailey isn't known to be the  
12 person who was at a particular meeting with Mr. Burke. In  
13 the light of this witness, I think what Ms. Dillon is  
14 trying to ascertain is, in the light of this witnesses  
15 state of mind, that he had no knowledge of -- why did he  
16 not ask Mr. Bailey, as the person who was there "where did  
17 the money that was alleged to have been paid, come from" or  
18 words to that effect? . I think that is really what Ms.  
19 Dillon is putting to him.

20 .

21 MS. DILLON: I will rephrase the question.

22 .

23 MR. COONEY: That is first of all cross-examination, if  
24 you allow that, so-be-it, her sense of curiosity has  
25 nothing to --

26 .

27 CHAIRMAN: Yes, I agree that is incorrect.

28 .

29 MR. COONEY: Could we not have the question; could we not  
30 have the questions in a proper form, Mr. Chairman, and also  
31 not proceeded by long inaccurate summaries of what  
32 supposedly went before? I mean is there any reason why

1 this examination could not be conducted in the normal  
2 fashion?

3 .

4 MS. DILLON: If Mr. Cooney could point out to me the  
5 inaccuracy?

6 .

7 CHAIRMAN: Please, we are not getting into a discussion.

8 Please.

9 .

10 MS. DILLON: But Sir --

11 .

12 CHAIRMAN: That is an end to the discussions.

13 .

14 MS. DILLON: Yes, Sir.

15 .

16 CHAIRMAN: That is an end to the discussion, let's go  
17 back.

18 .

19 MS. DILLON: I am going to go back to the witness, there

20 is one matter that must be borne in mind here. That if Mr.

21 Cooney says that I am making inaccurate summaries then it

22 is beholden to Mr. Cooney to establish the inaccuracy of

23 summaries. I do not make accusations at all against Mr.

24 Cooney. I am going to ask the question in a different

25 way. You were aware that Mr. Bailey was one of the persons

26 who was meant to have been at this meeting?

27 A. Yes.

2 132 Q. You had discussed Mr. Bailey with Mr. Ahern when you had

29 met him on the 24th of June?

30 A. Yes.

3 133 Q. And there had been some discussion about who is going to

32 interview Mr. Bailey on behalf of Mr. Bertie Ahern?

1 A. Correct.

134 Q. And Mr. Bailey telephones you, he gives you his information  
3 in relation to the meeting that he had attended and he  
4 suggests a payment of £100,000 to Mr. Gogarty?

5 A. Correct, yes.

135 Q. And he suggests that you should pay half of that payment?

7 A. Correct.

136 Q. Did you inquire of Mr. Bailey what had happened at the  
9 meeting?

10 A. No, as I said in my evidence, in relation to the 100,000, I  
11 said there is absolutely no way, I had resisted his  
12 blackmail up to now. I wasn't paying him anymore money and  
13 why would he be paying him money? And he said "yes, you  
14 are right". And he dismissed it. It was dismissed very  
15 quickly. I did not know at the time. As far as I was  
16 concerned at that time of that phone conversation, that Mr.  
17 Gogarty's allegation were lies. I mean the articles had  
18 been written with the shots and the damage and so on and so  
19 forth. I knew that I wasn't at that meeting. I did not  
20 know at that time and I did not make any inquiries as to,  
21 say the relationship between Mr. Bailey and Mr. Burke, or  
22 Mr. Bailey and Mr. Gogarty.

2 137 Q. Yes. Thank you Mr. Murphy. The question I asked was did  
24 you inquire, you knew that Mr. Bailey had been at the  
25 meeting, whatever the meeting was; isn't that right?

26 A. That's right, yes.

2 138 Q. With Mr. Burke. Did you inquire of Mr. Bailey what had  
28 happened?

29 A. I did not, no.

3 139 Q. At that meeting?

31 A. I did not, no.

3 140 Q. Did you not consider, it would have been a reasonable

1 inquiry for you to have made in the light of Mr. Ahern's

2 visit to London to you the previous week?

3 A. I did not inquire of Mr. Bailey; Mr. Bailey seemed to be in

4 a rush. I think he mentioned something about going out on

5 site and that he was in a hurry and, no, it did not come

6 up.

141 Q. And did you inquire of Mr. Bailey as to why he was

8 suggesting you should pay £50,000 to Mr. James Gogarty?

9 A. As I have said in my evidence, Mr. Bailey dismissed it

10 nearly as soon as he had said it.

1 142 Q. And did you have any discussion with Mr. Bailey as to where

12 the money that was alleged to have been paid to Mr. Ray

13 Burke had come from?

14 A. No.

1 143 Q. Did you inquire from Mr. Bailey as to whether he had made a

16 substantial donation, or payment, to Mr. Ray Burke in June

17 of 1989?

18 A. Mr. Bailey told me that he was a friend of Mr. Burke's.

19 And he confirmed that he had paid no money to Mr. Burke,

20 except donations during election time.

2 144 Q. I think Mr. Dermot Ahern has a different recollection of

22 that part of the conversation, but I will come back to deal

23 with that in a moment. The only matters then that you

24 discussed with Mr. Michael Bailey in the telephone

25 conversation, was his passing information to you that there

26 had been a meeting involving Mr. Ray Burke and Mr. Bertie

27 Ahern, and a suggestion to you that £100,000 should be

28 paid, jointly, between yourself and Mr. Bailey to Mr.

29 Gogarty?

30 A. Correct.

3 145 Q. And nothing else?

32 A. Nothing else, no.

146 Q. All right. Now, Mr. Ahern has a recollection and he gave

2 evidence that you said that Michael Bailey had said in the

3 course of that conversation, that he had previously paid

4 Mr. Burke for planning permission?

5 A. No, that is not correct. Mr. Ahern asked me if I knew if

6 Mr. Bailey ever gave any money to Mr. Burke, and I said

7 "yes", that he had informed me that he had given money to

8 Mr. Burke on occasions during election time. I did not, no

9 way, did I associate it with planning and I want to make

10 this categorically clear. That Michael Bailey never told

11 me at any stage that he paid anybody for planning favours

12 and I never told that to Dermot Ahern.

1 147 Q. So there is a difference in your recollection in relation

14 to that. Following this conversation with Mr. Michael

15 Bailey, you telephoned Mr. Dermot Ahern?

16 A. Correct.

1 148 Q. Why?

18 A. I was going to Ireland I think the next day, Tuesday

19 anyway, I think I was coming over on business and I wanted

20 to relay the, because when we departed after the first

21 meeting, we swapped telephone numbers. He gave me his

22 mobile number on his card and I gave him my numbers. He

23 said if there was any developments to keep him in touch. I

24 rang him to inform him of these new developments.

2 149 Q. And what were the new developments?

26 A. The phone conversation with Mr. Bailey.

2 150 Q. But the phone conversation with Mr. Bailey; how would that

28 qualify as a new development, Mr. Murphy?

29 A. Well, I wanted to inform him that, as I say, maybe I was

30 wrong about the actual meeting. I put, as I said Mr.

31 Bailey had said he had been talking to Mr. Ahern. Now with

32 hindsight, you know, I may have been wrong with Bertie

1 Ahern being at the meeting. I know note that he had been  
2 talking to him a week before that. But as he said, as Mr.  
3 Bailey said to me, "by the time I left the house yesterday,  
4 I left Ray Burke", so I was under the impression that the  
5 two of them were at this meeting. That was the impression  
6 I got. I wanted to inform Mr. Ahern that Mr. Bailey had  
7 told me that Mr. Bertie Ahern and Mr. Burke, had had a  
8 meeting the previous Sunday. I didn't think at that time  
9 that Mr. Bertie Ahern would have attended such a meeting.

1 151 Q. You were relaying to Mr. Dermot Ahern that Mr. Michael  
11 Bailey had told that you there had been a three-hour  
12 meeting between Mr. Michael Bailey, Mr. Bertie Ahern and  
13 Mr. Ray Burke?

14 A. Correct.

1 152 Q. And that following in on that Mr. Michael Bailey contacted  
16 you and asked you to pay £50,000 to James Gogarty?

17 A. Correct.

1 153 Q. You did -- did Mr. Michael Bailey tell that you there was  
19 in fact a three-hour meeting or did you misinterpret the  
20 telephone call?

21 A. No, he told me that -- yes, he definitely mentioned three  
22 hours, but as I said he said he had been talking to Dermot,  
23 to Bertie Ahern, he was including both of them in what he  
24 told me, when he said well "by the time I left Burke's  
25 house yesterday I left him in no doubt that he was caught  
26 up in a dispute between two old men" I presumed that it was  
27 a three-way meeting. I may have been wrong. I certainly  
28 told Mr. Dermot Ahern that there was a three-way meeting.

2 154 Q. So the important new information you had to, or  
30 developments that you had to bring to the second meeting  
31 with Mr. Dermot Ahern was this conversation with Mr.  
32 Michael Bailey?



1 A. Mr. Ahern said to keep in touch. If there was any  
2 developments whatsoever, yes I phoned him, as I was coming  
3 to Ireland anyway, to tell him this, yes.

155 Q. And in the light of the fact that you wanted to update Mr.  
5 Dermot Ahern about this development, could you not also  
6 have, if you had asked Mr. Michael Bailey the central  
7 question, about what had happened in the meeting with Mr.  
8 Ray Burke at his house in June of 1989, that you might have  
9 been able to update him a great deal more?

10 A. Sorry?

1 156 Q. I don't understand, you see Mr. Murphy, and -- why it was  
12 so important to tell Mr. Ahern about a conversation that  
13 you had had with Mr. Michael Bailey, as you have outlined  
14 it to us? When the most obvious question that should have  
15 been asked of Mr. Michael Bailey is what happened in Mr.  
16 Burke's house in June of 1989?

17 A. It is pure speculation on your part. As I say I did not  
18 discuss the meeting in Ray Burke's house with Mr. Bailey.  
19 .

20 CHAIRMAN: Now, I think we have explored this about as far  
21 as we can possibly explore it. So, shall we move on,  
22 because we are just getting nowhere at the moment.

23 .

24 MS. DILLON: Of course Sir. Absolutely.

25 .

26 MR. COONEY: I also understand that Mr. Ahern's counsel is  
27 here and presumably he will be cross-examining the witness  
28 about these topics as well. I assume that another hostile  
29 cross-examination, perhaps touching this matter, will come  
30 from Mr. Callanan. I thought that this is rather a bit lop  
31 sided, if I am correct in that.

32 .

1 MS. DILLON: I hope Mr. Cooney isn't suggesting anything  
2 hostile.  
3 .

4 CHAIRMAN: Now please. Now please no further, no further  
5 cross discussions with counsel, by either party.

157 Q. MS. DILLON: You met Mr. Dermot Ahern in Fitzers  
7 Restaurant on the 1st of July of 1997?

8 A. I did.

158 Q. And you gave him your account of your telephone  
10 conversation with Mr. Michael Bailey?

11 A. Yes.

1 159 Q. Did you describe Mr. Michael Bailey as being "off the wall"  
13 in relation to the suggestion that £100,000 would be paid  
14 to Mr. James Gogarty?

15 A. No, I never used the term "off the wall" I have never used  
16 that term. "Off the wall" I think and I may be wrong.  
17 This was something that he said was -- but I didn't  
18 actually use the term "off the wall" maybe the transcript  
19 could be checked. I think Mr. Ahern had said that was the  
20 impression that I gave him. I did not use the term "off  
21 the wall".

2 160 Q. Very good. What other information did you give Mr. Ahern  
23 at that meeting?

24 A. I relayed the conversation with Michael Bailey. It was a  
25 general discussion, Mr. Ahern had been appointed his  
26 ministerial position at that time. I asked him if he was  
27 disappointed that he didn't get the justice minister's job,  
28 as he had told me in London that he was tipped for that  
29 particular post. He said no, that he was quite happy with  
30 his position, but he said that he was not in, now in a  
31 position to give me details on the immunity issue; at the  
32 time there was stuff floating around about Gogarty, Mr.

1 Gogarty getting immunity from prosecution. He had told me  
2 in London that if he did get the justice minister's job  
3 that he would let me know the type of immunity that Mr.  
4 Gogarty got.

161 Q. Yes; and Mr. Ahern, you are aware, denies that that  
6 discussion in relation to immunity as you have described  
7 it, took place. Did you discuss at all about whether you  
8 had gone back and checked or double-checked on the accounts  
9 in JMSE in relation to the payments?

10 A. I may have told him that I had discussions with Frank,  
11 because the main purpose, sorry of the second meeting, was  
12 at the first meeting, Mr. Ahern had put to me; would it  
13 have been possible for Mr. Gogarty to get this money out  
14 himself? In other words, was it one or more signatories  
15 which were needed? The purpose while there was  
16 developments in the phone conversation with Mr. Bailey, the  
17 main purpose of this meeting was to inform him that I had  
18 made inquiries through Mr. Frank Reynolds, and he had  
19 informed me that, yes, two signatories were needed on the  
20 JMSE account at that time, and that Mr. Gogarty was one of  
21 them. I was not able to supply this information to Mr.  
22 Ahern at the first meeting, so I gave him it at the second  
23 meeting.

2 162 Q. Yes. Did you tell Mr. Ahern and, again I mean he wasn't  
25 challenged on this, that you had gone back and  
26 double-checked and money could not have been given take  
27 without anyone knowing anything?

28 A. I would have said that with the double signature needed at  
29 the time, that I would have presumed that somebody else  
30 would have had to know about it.

3 163 Q. And therefore you don't disagree with Mr. Ahern when he  
32 says that you had said that you had gone back, checked and

1 double checked and that money could not have been taken out

2 without --

3 A. I don't know that I agree that I had gone back and

4 double-checked. I had checked. I don't know if I used the

5 word "double-checked" I had checked with Mr. Reynolds on

6 the issue of the cheque signatories in 1989, whether there

7 was one or two needed.

164 Q. And had you checked with Mr. Reynolds between the first and

9 second meeting with Mr. Ahern?

10 A. Sorry?

1 165 Q. Had you checked with Mr. Reynolds between the first meeting

12 on the 24th of June and the second meeting on the 1st of

13 July --

14 A. About the cheque signatories?

1 166 Q. About whether any money had been taken out?

16 A. It may have been discussed again with Mr. Reynolds, but as

17 I say, the checking I had done in the intervening week was

18 the second signatory; was there a second signatory in the

19 JMSE accounts at that time.

2 167 Q. And had you spoken to your father in the intervening week?

21 A. Yes.

2 168 Q. And had he confirmed that no funds had been made paid out?

23 A. He said he wasn't aware, I obviously told him that I had

24 met with Mr. Dermot Ahern and he said he just dismissed it

25 and said "sure we sold those lands for agricultural prices,

26 why would we be paying money over for a bribe".

2 169 Q. Again, I am sure Mr. Cooney will criticise me in relation

28 to this, but Mr. Ahern was not cross-examined in relation

29 to this. At question 56 and question 57 of Day 50, Mr.

30 Ahern said that you told him that Mr. Frank Reynolds had

31 checked through all of the records and that a check had

32 been made for June of 1989, and no cheques or money out of

1 JMSE or the companies account generally, without Frank  
2 Reynolds knowing about it, and you had checked with Mr.  
3 Reynolds?

4 A. I may well have told him that, yes, but I mean this check  
5 would have been done in or around when we checked the  
6 cheque journals. I would not have emphasised that a  
7 recheck, but I may well have said that to him. I mean, I  
8 mightn't disagree with Mr. Ahern on that.

170 Q. He said, in fact, what you said was that Mr. Frank Reynolds  
10 had checked throughout all the records?

11 A. Not all the records. I said the checking that we had done  
12 at that time was in the cheque journal.

1 171 Q. Yes. I think the relevant question is question 56. And  
14 there was no challenge. Question 56: "Did he indicate to  
15 you what had been checked by Mr. Frank Reynolds. What the  
16 nature of the documents were, that were checked? Answer:  
17 He stated he checked throughout all the records which I  
18 understood to be all the accounts of the company.  
19 Question: Did he tell you what period was being checked  
20 to ascertain whether there had been such a payment?  
21 Answer: Well again, we would have been referring to the  
22 period of 1989 when all of this was supposed to have  
23 occurred, which you know, again I largely was going on the  
24 media reports which were in the public domain as to when  
25 this would have taken place, but when I was speaking with  
26 Mr. Murphy on the second occasion, he was quite adamant  
27 that he had checked for that period, that no cheques or no  
28 money could have been taken out of the JMSE accounts or in  
29 the companies accounts, generally, without Mr. Frank  
30 Reynolds, and that he had subsequently, as I said,  
31 checked".  
32 Does that accord with your recollection?

1 A. Can I have that?

172 Q. Of course you may.

3 A. Because I mightn't differ a great deal on some of that. I

4 might differ on some of it --

173 Q. Yes, page 19 and 20, question 56 and 57. Page 19 and 20

6 (transcript handed to witness) I can give you 20 but it is

7 just underlined. I can give you 19 but it is underlined,

8 if the witness has no objection? It is just underlined in

9 pink.

10 A. Okay, yeah.

1 174 Q. Is that all right?

12 A. I think that "no way in which Mr. Gogarty would have taken

13 cheque out of companies accounts without there having been

14 another signature".

1 175 Q. We are looking at question 56, Mr. Murphy, and question 57

16 which relate to the second meeting?

17 A. Sorry.

1 176 Q. I know you have two pages of transcript in front of you.

19 We are looking specifically at question 56 and question

20 57.

21 A. No, I did not say to Mr. Ahern that we checked all the

22 records. I was specific to the cheque journal.

2 177 Q. Limited only to the cheque journal?

24 A. Yes. I mean I mightn't have mentioned cheque journal, but I

25 might have said "record" or I certainly did not say that I

26 done a check throughout all the records, because we hadn't.

2 178 Q. Did you indicate that you had checked through some of the

28 records or that Mr. Reynolds had checked through some of

29 the records?

30 A. Yes. I may have said, I may have said we checked a record

31 or something like that, the word "cheque journal" mightn't

32 have been specifically mentioned, but I certainly never

1 told him that we had checked throughout all the records

2 because we hadn't, we didn't do that until later.

179 Q. Again, I will just make the observation there in relation

4 to question 57, that Mr. Ahern was not challenged at all in

5 relation to that?

6 A. Maybe he wasn't.

180 Q. Now, Mr. Ahern also said that he described that you were

8 categoric in your assurance that the accounts had been

9 double-checked at the second meeting.

10 A. Not at all. I told him that I had double-checked with my

11 father. I may have discussed it with Frank Reynolds, again

12 obviously he had to do the checking on the signature for

13 me. That is not true.

1 181 Q. That is at question 59. Again Mr. Ahern wasn't challenged

15 in relation to that. Now, you finished your meeting with

16 Mr. Ahern, I will take those back from you. They are

17 probably only in your way, Mr. Murphy. (Transcript handed

18 to counsel) Subsequent to your meeting with Mr. Ahern, you

19 contacted Mr. Roger Copsey; is that correct?

20 A. Yes, yes. The evidence I have given in or around May of

21 '97, yeah.

2 182 Q. I think you gave evidence here last week?

23 A. After the second article.

2 183 Q. That said that you spoke on the 1st of July of 1997 to Mr.

25 Roger Copsey. I will find you the reference now?

26 A. No. I went to his office.

2 184 Q. You went to his office. Can you tell us when you made the

28 appointment to see Mr. Copsey?

29 A. I didn't make any appointment. I think I just turned up at

30 his door.

3 185 Q. Why did you decide to do that?

32 A. Because of the issues now that were in the domain. I went

1 to him and, although I had been specific in the earlier  
2 phone conversation about if he had any knowledge of a  
3 payment to Mr. Burke, I went down to sit with him face to  
4 face to discuss Mr. Gogarty, what Mr. Gogarty's allegations  
5 were in the newspapers.

186 Q. Yes. Did you tell Mr. Ahern at that meeting that you were  
7 proposing to visit with Mr. Copey that afternoon to see,  
8 to carry on further inquiries?

9 A. No. I think it was following on that meeting that I would  
10 go down to Roger Copey's office. I had no appointment  
11 when I met Dermot Ahern.

1 187 Q. And the issues that you wished to discuss with Mr. Copey  
13 was the question of whether any money had been paid to Ray  
14 Burke?

15 A. Correct.

1 188 Q. And when you went to meet Mr. Copey, what did Mr. Copey  
17 tell you?

18 A. I told him that, did he - was he reading the papers,  
19 especially the Business Post articles? I think he said  
20 "no", I don't know whether he bought that paper or not.  
21 But I reiterated what Mr. Gogarty was saying, and I asked  
22 him, you know, to think back and see, because if he had any  
23 recollection of this.

2 189 Q. Any recollection of what, Mr. Murphy?

25 A. Of any payment to Ray Burke, Mr. Ray Burke.

2 190 Q. And what did Mr. Copey say?

27 A. He said that he had never, he had no recollection  
28 whatsoever of any payment to Mr. Burke. He started  
29 thinking and then he said, there may well have been a  
30 political contribution sometime back. He wasn't able to  
31 specify the time or the date or to who or what, but he did  
32 say at that stage, he said, I think, he referred some sort



1 of political contribution.

191 Q. Was he able to specify the amount?

3 A. No.

192 Q. What political party?

5 A. No.

193 Q. So, what Mr. Copsey told you on the afternoon of the 1st of

7 July, of 1997, was that he had a somewhat vague

8 recollection of a political contribution sometime back?

9 A. Correct.

1 194 Q. And not to any named party?

11 A. No.

1 195 Q. And this was in response to your query as to whether any

13 payments had been made to Mr. Ray Burke?

14 A. Yes. I discussed in general terms the accusations that

15 were being aired in the media at the time.

1 196 Q. Right. And what particular issue arose at your meeting

17 with Mr. Dermot Ahern that prompted you to recheck with Mr.

18 Copsey?

19 A. I never said there was a particular issue arose. I just

20 decided to go and see Roger Copsey that afternoon as I was

21 in Ireland. I never said that there was a particular

22 incident. I think that, in general with both meetings with

23 Dermot Ahern, coupled with the media, I just decided to go

24 and sit down face to face with him and discuss it. Roger

25 Copsey had been out of our companies for a long time. I

26 decided to go and sit down face-to-face with him.

2 197 Q. And despite the media attention and your meeting with Mr.

28 Ahern when Mr. Michael Bailey telephoned you and he was a

29 person who was alleged to have been at the meeting with Mr.

30 Ray Burke, you didn't feel the need to make the same

31 inquiry?

32 A. No, because Ms. Dillon --

1 .

2 MR. COONEY: That is argument, Mr. Chairman, that isn't a  
3 question, it is argument.

4 .

5 CHAIRMAN: Put it in the form of an interrogative  
6 question. Why.

198 Q. MS. DILLON: Why did you not make a similar inquiry of Mr.

8 Michael Bailey on the telephone?

9 A. Because I had known that the articles that were being  
10 written, I had known that they weren't true, that I wasn't  
11 at the meeting, that I had never given Mr. Burke any  
12 money. As I said earlier on, I knew the articles were  
13 coupled with shots and vandalism and damage and various - I  
14 dismissed them.

1 199 Q. Why didn't you go to see Mr. Copsey before meeting Mr.

16 Ahern?

17 A. As I said, Mr. Copsey had been out of the companies for  
18 seven years at the time. I had had no contact with him in  
19 the intervening period. I think all this was happening  
20 very, very fast. I was fairly busy at the time, I had a  
21 company to run in the UK. I had some personal problems  
22 that year. My wife had to be rushed into hospital earlier  
23 on in the year for emergency surgery and I had a son that  
24 was very, very ill. There was a lot of things happening at  
25 the time.

2 200 Q. Yes. You had previously spoken to Mr. Roger Copsey in May  
27 of 1997?

28 A. Correct.

2 201 Q. And Mr. Copsey had assured you that there had been no  
30 payment to Mr. Ray Burke?

31 A. Correct.

3 202 Q. You then go to Mr. Copsey on the 1st of July of 1997 and he

1 says there is no payment to Ray Burke, but there may have  
2 been a political contribution.

3 .

4 MR. COONEY: He didn't say that, it is a misquotation of  
5 his evidence. He didn't, Mr. Copsey did not say on the  
6 second occasion, it is not the witness' evidence, that the  
7 name "Mr. Burke" was mentioned.

8 .

203 Q. MS. DILLON: Sorry, I understood that Mr. Murphy asked Mr.  
10 Copsey on the 1st of July about a payment to Mr. Ray Burke  
11 and that was his evidence?

12 A. I told, I discussed the various accusations that Mr.  
13 Gogarty was making through the media.

1 204 Q. MS. DILLON: And that included an allegation that money  
15 had been paid to Mr. Ray Burke?

16 A. Yes.

1 205 Q. And you discussed a possible payment to Mr. Ray Burke with  
18 Mr. Copsey?

19 A. Yes; and as I said, Mr. Copsey said he knew nothing about a  
20 payment to Mr. Burke or any politician or any party. He  
21 said that he remembered something, some sort of a political  
22 contribution but that was, that was all his recollection.

2 206 Q. Yes; that was as I had understood you to say, Mr. Murphy.

24 I don't understand Mr. Cooney's intervention. Why, do you  
25 have any reason, or can you help us at all as to why Mr.  
26 Copsey was able to make, come to mind with the word  
27 "political contribution" in July of 1997 when previously  
28 when you had made the inquiry there had no response?

29 A. Because I had been specific to Mr. Burke in the previous  
30 inquiry.

3 207 Q. Did you widen the inquiry when you went to Mr. Copsey on  
32 the 1st of July?

1 A. What do you mean, I am not with you there?

208 Q. The previous inquiry you had made, you told us to Mr. Roger

3 Copsey, was whether a sum of £40,000 been paid to Mr. Ray

4 Burke in June of 1989, and the answer to that had been

5 "no"?

6 A. Yes.

209 Q. I think that was when you contacted Mr. Copsey in May of

8 1997?

9 A. Yes.

1 210 Q. You then contacted Mr. Copsey in the July of 1997?

11 A. Correct.

1 211 Q. And had you widened the scope of your inquiry at that

13 stage?

14 A. No. We had discussed the general reports in the media and

15 Mr. Gogarty's allegations at the time, and he said that he

16 certainly didn't know about any payment to Mr. Burke or any

17 politician, but he remembered some sort of a political

18 contribution.

1 212 Q. And that was what started you on an inquiry then to try and

20 establish whether or not there had, in fact, been any such

21 political contribution?

22 A. Correct.

2 213 Q. Did you ask Mr. Copsey, at that stage, what his level of

24 knowledge about this political contribution was?

25 A. That was his level of knowledge.

2 214 Q. That there might have been a political contribution?

27 A. That there may have been a political - he remembered

28 something of a sort of a political contribution, but

29 couldn't expand on it.

3 215 Q. Yes. Did he mention Mr. Gogarty in connection with that

31 political contribution?

32 A. Yes. I think he may well have, yes.

216 Q. Yes; and following on that then, did you revert to Mr.

2 Ahern and tell him there may have been a political  
3 contribution, I am conducting an inquiry, an investigation  
4 --

5 A. No.

217 Q. Why not?

7 A. At that stage, as I say events were happening very, very  
8 fast. I had been in consultation, constant consultation  
9 with my lawyers and senior counsel over various articles  
10 that had been written. As I say my priorities at that time  
11 were my family. I had, as I have just explained, a  
12 difficult period of time, especially the June/July period.  
13 And I was trying to run a business. My priorities had  
14 changed. We had to make the investigations that we had to  
15 make at the time, they involved going to Mr. McArdle's  
16 office and through no fault of Mr. McArdle he had some very  
17 tragic circumstances, both himself and his wife were very  
18 ill, he was hard to contact, and it took us sometime to  
19 piece it altogether.

2 218 Q. Yes, in what context did Mr. Roger Copsey mention Mr. James  
21 Gogarty?

22 A. I think he may well have mentioned Mr. Gogarty when he  
23 said, when he said "I remember some sort of a political  
24 contribution involving Jim Gogarty", I think that was the  
25 way that he put it.

2 219 Q. Yes. I may be misunderstanding you here, Mr. Murphy, when  
27 you were made aware by Mr. Copsey on the 1st of July that  
28 there may have been a political contribution and you  
29 started to conduct an inquiry yourself to try and find out  
30 what was behind all of this, what was your first port of  
31 call in relation to your inquiry?

32 A. I think that I may have gone back to my solicitors at the

1 time and reported or discussed it with Mr. Reynolds, and we  
2 would have discussed it with our solicitors.

220 Q. Mr. McArdle?

4 A. No, I think it was later, I was telephoning Mr. McArdle to  
5 try and get the various documents from his office, but as I  
6 say Mr. McArdle had some personal tragic circumstances at  
7 the time, and it was some time before we are actually able  
8 to piece it altogether.

221 Q. Yes; but when you say you went to discuss the matter with  
10 your solicitors, I just don't want to misunderstand you?

11 A. Mr. Fitzsimons was my solicitor at the time.

1 222 Q. Not Mr. McArdle?

13 A. Correct.

1 223 Q. Did you conduct a search through the company books and  
15 accounts?

16 A. I think, as I said the first port of all was Mr. McArdle.

17 I think.

1 224 Q. Why, sorry, I cut across you, Mr. Murphy.

19 A. Well, the reason why, was that Mr. McArdle had held the  
20 accounts of these land owning companies at the time. He  
21 had information that may have been helpful to us at that  
22 time.

2 225 Q. But why would you have gone to Mr. McArdle first Mr.  
24 Murphy?

25 A. Because he dealt with, he did, he was the solicitor that  
26 dealt with the sale of the lands to, that were being talked  
27 about in the media. He was the solicitor involved in it.  
28 He had the contract for sale and all the various documents  
29 relating to the sale.

3 226 Q. Yes. Why was your first inquiry after your discussion with  
31 Mr. Copey to Mr. McArdle in relation to the land owning  
32 companies and not --.

1 A. I may have discussed it with Mr. Reynolds and I may have  
2 discussed it with Mr. Fitzsimons and Mr. Fitzsimons would  
3 have obviously said to me that we obviously need some  
4 documentation that was in Mr. McArdle's office, because  
5 both him and me were trying to get this information.

227 Q. Did you go through the accounts of JMSE?

7 A. At that stage I think we were making inquiries through the  
8 accounts of JMSE, but it wasn't until we got copies of the  
9 documents from Mr. McArdle that we were able to piece it  
10 altogether. The accounts of JMSE, as you well know, showed  
11 a payment to Grafton, and the whole sequence was not pieced  
12 together until we were able to put certain documents that  
13 Mr. McArdle had and certain documents maybe that were in  
14 JMSE's office.

1 228 Q. Did you take up a copy of the bank statements of JMSE for  
16 June of 1989?

17 A. Yes.

1 229 Q. I beg your pardon, I didn't hear. I didn't hear. I  
19 couldn't hear what you were saying in that question at  
20 all.

21 A. Yes, I think sometime in July of 1989 that we made  
22 inquiries from the bank, I think for all the cheques in or  
23 around the June period of 1989.

2 230 Q. And I think the bank statements and the documents we looked  
25 at on Friday Mr. Murphy?

26 A. Correct.

2 231 Q. Established the sequence of payments; isn't that right?

28 A. Correct, yes.

2 232 Q. And presumably copies of the bank statements would have  
30 been with the accountants of JMSE since 1989, in the normal  
31 accountancy way?

32 A. Those particular statements. Yes, they may well have been

1 in the offices, yes.

233 Q. Certain information was faxed in July of 1989 I think, to  
3 you. Sorry Mr. Murphy, excuse me. Did you go and see Mr.  
4 McArdle?

5 A. I did on one occasion, yes, and on two occasions I have  
6 seen Mr. McArdle, yes.

234 Q. When was that, Mr. Murphy, can you remember?

8 A. I think one may have been in, shortly after, shortly after  
9 he gave us copies of the documentation.

1 235 Q. And when was that, can you remember?

11 A. I think that Mr. McArdle gave us copies of certain  
12 documentation, I think on the 11th of August.

1 236 Q. Of 1997?

14 A. Correct.

1 237 Q. Right?

16 A. But I don't think, I think it was shortly after that, I  
17 think he had actually passed over copies of the sale of the  
18 lands in question to Mr. Fitzsimons at the time. I think I  
19 may have gone to speak to him; yes, I did, the next  
20 occasion I think was tragically when he was in hospital.

2 238 Q. I think in July of 1997 certain documents were faxed,  
22 including the bank statement of June of 1989, and this is a  
23 bank statement we have already looked at, Mr. Murphy?

24 A. That may well be the case.

2 239 Q. It is on Friday, I think. JMSE 1.7-17. It was faxed by  
26 Mr. F Reynolds on the 23rd of the 7th of 1997. (Document  
27 handed to witness) now this appears to be a copy of a bank  
28 statement that we looked at on Friday, JMSE 1.7-17. It is  
29 relating to the JMSE No. 2 account at the Allied Irish Bank  
30 for June of 1989?

31 A. Correct.

3 240 Q. That appears to be faxed to a "J Murphy" at a fax number



1 that is beneath it, from Mr. Frank Reynolds on the 23rd of

2 July 1987?

3 A. Correct.

241 Q. Beneath that there is the words "R Burke, re Burke"; is

5 that right?

6 A. No, "books" is it?

242 Q. I have no idea.

8 .

9 MR. COONEY: Is this document in the red book?

10 .

1 243 Q. MS. DILLON: It should be. The reference is JMSE 1. --

12 A. It may well be because he were conducting our inquiries

13 into the whole "Ray Burke" I would have to ask Frank

14 Reynolds what that word was. But obviously our inquiries

15 into this book/Burke affair as we called it --

16 .

17 MR. COONEY: Sorry, could I just interrupt? Ms. Dillon

18 knows well that this statement has a debit of £10,000

19 written in it. And that is the Burke, that is the, that

20 represents the cheque for £10,000 made out to cash written

21 on the 8th of June and according to our evidence, given to

22 Mr. Burke in or about the 8th of June. It has come back to

23 our account and it appears in as a debit in the account for

24 that day.

25 .

26 MS. DILLON: I am obliged to Mr. Cooney for giving

27 evidence.

28 .

29 MR. COONEY: I am not giving evidence.

30 .

31 CHAIRMAN: Please now Mr. Cooney. Thank you very much Mr.

32 Cooney, I appreciate your situation. Now please, this must

1 not be cross, there must not be cross fire between counsel

2 under any circumstances.

3 .

4 MR. COONEY: I perfectly agree, Mr. Chairman, I am merely

5 making a point to you.

6 .

7 CHAIRMAN: I accept that.

8 .

9 MR. COONEY: If I can do that, may it please --

10 .

1 244 Q. MS. DILLON: I was just going on to deal with this

12 document which was dealt with in full on Friday. This is

13 the bank statement that shows the debit on the 22nd of June

14 1989, of account number 15045-781, in the sum of £10,000

15 which was the £10,000 cheque payment to Mr. Ray Burke; Mr.

16 Murphy?

17 A. Correct, yes.

1 245 Q. We had looked at this document on Friday as part of a

19 sequence of documents showing the financial trail, as it

20 were, to some degree in relation to this payment?

21 A. Correct.

2 246 Q. Yes. Now, what I wanted you to concentrate on or to look

23 at, was that this was being faxed to you; sorry, what I

24 want you to confirm was the "Mr. J Murphy" at the bottom,

25 was that you or was that Mr. Murphy Snr.

26 A. It was me.

2 247 Q. And is that your fax number, there is no need to read it

28 out, that is beneath that?

29 A. Correct.

3 248 Q. This was being faxed from Mr. Frank Reynolds, presumably in

31 JMSE on the 23rd of July of 1997?

32 A. Correct.

249 Q. So would it be fair to take from that, by the 23rd of July  
2 of 1997 you had located that payment as a £10,000 payment  
3 to Mr. Ray Burke?

4 A. I think that the "Ray Burke" may have been the affair, I  
5 think we would have been, I think shortly after this we  
6 wrote to the bank in general, but we would have had, I  
7 don't know whether I had identified that, but we would have  
8 identified that as something to look into further.

250 Q. As something to look into further?

10 A. Yes; because shortly after that, we wrote to the banks and  
11 asked them if they could help us with this. I mean, we  
12 weren't one hundred percent sure. It is obviously the case  
13 now that that was part of the cheque. But we would have  
14 had to make further inquiries to determine if this cheque  
15 was part of any payments, yes.

1 251 Q. Yes.

17 .

18 MR. COONEY: Sorry to interrupt again. Those letters to  
19 the bank have been furnished to the Tribunal. I presume  
20 that Ms. Dillon will come to those.

21 .

22 MS. DILLON: These were the letters, you will recollect I  
23 think that Mr. Cush, which in fact had not been discovered  
24 and which subsequently after which Mr. Cush sought to  
25 introduce them were furnished to the Tribunal with an  
26 Affidavit of Discovery. I may be incorrect in that. There  
27 are two letters in relation to that. I will deal with them  
28 if and when they became relevant.

29 .

30 The second matter which is something Mr. Murphy, in  
31 fairness to you, you may not be able to comment on, it is a  
32 bank statement of the, of the same bank account and again

1 it is June 1989, showing the lodgement of £30,000 that we  
2 looked at last week. Do you remember. This is the ICC  
3 monies?

4 A. Oh, yes.

252 Q. Yes, it may be coming up in front of you?

6 A. Right.

253 Q. And this was faxed from Mr. Reynolds at JMSE to Mr.

8 Fitzsimons, presumably of Fitzsimons Redmond. On, I think  
9 the 13th of the 7th of 1997. Do you have a copy (document  
10 handed to witness)?

11 A. No.

1 254 Q. And again, which we have gone through this document on

13 Friday. It is JMSE 1.7-16?

14 A. Yes.

1 255 Q. What I want you to look at Mr. Murphy. You may not be able

16 to help me in relation to it. If you can't, just say-so,

17 because it is not a fax addressed to you, it is a fax

18 addressed to Mr. Fitzsimons. It is from Mr. Reynolds.

19 Again, it is the 13th of July of 1997.

20 A. Correct.

2 256 Q. And this account deals with the repayment of the £30,000 to

22 JMSE in respect of the Ray Burke payment; isn't that right?

23 A. Correct.

2 257 Q. And do you have any information as to why that was being

25 faxed to Mr. Fitzsimons in July of 1997?

26 .

27 MR. COONEY: It is a communication to my instructing

28 solicitor, Mr. Chairman.

29 .

30 CHAIRMAN: It is not privileged, Mr. Cooney, on the basis

31 that it is not part of litigation; isn't that so?

32 .

1 MR. COONEY: Well, may it please you, Mr. Chairman. It is  
2 your ruling.

3 A. Mr. Fitzsimons was our solicitor at the time. And as I say  
4 we were trying to piece all the information together, to  
5 piece the whole thing together.

258 Q. So this was part of the ongoing investigation into the  
7 monies that may or may not have been paid to Mr. Ray Burke?

8 A. Yes.

9 .

10 CHAIRMAN: I think we will break here for a quarter of an  
11 hour.

12 .

13 MR. COONEY: I wonder could we see, Sir, just before you  
14 rise, Mr. Chairman; Ms. Dillon says this fax is dated the  
15 13th of July; the centre figure is very obscure in the copy  
16 I have. If we could just see a clearer copy of that, it  
17 might be in August actually?

18 .

19 CHAIRMAN: We don't have a clearer --

20 .

21 MR. COONEY: It may be an "8" as well, on my copy. It  
22 doesn't look like a "7". It doesn't like any recognisable  
23 numeral. When one looks at the "7" in the year --

24 .

25 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

26 AGAIN AS FOLLOWS:

27 .

28 MR. COONEY: Perhaps, Mr. Chairman, I could tell you that  
29 the original of that fax is in Mr. Fitzsimon's office. We  
30 are instructed by telephone that the figure between the two  
31 lines is "8" but we will get the original down.

32 .

1 CHAIRMAN: Mr. Cooney, when you tell me something, I  
2 accept it.

3 .

4 MR. COONEY: I am telling you what I have been told,  
5 Mr. Chairman. We will look at the original.

6 .

7 CHAIRMAN: This is the print-out. The faxed print-out.

8 .

9 MR. HERBERT: There is no heading on it.

10 .

11 CHAIRMAN: Well, surely there must be, no fax has ever  
12 come through a fax, without a fax heading on the top of the  
13 page

14 .

15 MR. COONEY: That letter --

16 .

17 CHAIRMAN: What we need, what we need, you know the  
18 inscription that is on the top of the fax; it comes off the  
19 fax machine, it goes across that there, that is the  
20 confirmation of this, because there can be a dispute as to  
21 whether that is a "7" or "8".

22 .

23 MR. COONEY: We will see if that has that printed part.

24 .

25 CHAIRMAN: That is the essential one that has to be  
26 found.

27 .

28 MR. COONEY: We will bring down the original and you can  
29 look at it

30 .

31 CHAIRMAN: Thank you very much. I assure you, to start  
32 with, Mr. Cooney, I basically start by accepting, when

1 counsel tells me something, I accept it.

2 .

3 MR. COONEY: Thank you very much.

259 Q. MS. DILLON: In any event, Mr. Murphy, in July and  
5 probably August of 1997 certain inquiries were being  
6 conducted in the company in relation to this payment?

7 A. Correct.

260 Q. And I think it is clear, certainly from the first document  
9 I put to you, which is JMSE 1.7-17, that is the bank  
10 statement, you have that there in front of you?

11 A. Yes, I do, yes.

1 261 Q. That was faxed to you on the 23rd of the 7th. I think you  
13 told us that, I think last week, maybe I may be incorrect  
14 in that; that was in fact July, the 23rd of July, that  
15 particular fax, not the last one we were looking at before  
16 the break. Do you have JMSE 1.17 --

17 A. Yes, the bank statement with the "10" on it, yes.

1 262 Q. With the £10,000 on it?

19 A. Correct, yes.

2 263 Q. And the reference, what possibly is "re Burke or R"?

21 A. No, I think that is "banks".

2 264 Q. Or "re banks" or whatever it may be at the bottom of the  
23 faxing, that was being faxed to you?

24 A. Yeah.

2 265 Q. In July of 1997?

26 A. It looks like the 23rd of July, yes.

2 266 Q. 1997. Did you go back to Mr. Ahern at all about this  
28 matter?

29 A. No, Ms. Dillon. We had to, as I say, piece it altogether.

30 We didn't piece it altogether until August, until we had  
31 the full information.

3 267 Q. Yes. You didn't feel any need to alert Mr. Ahern that

1     there might possibly be a payment to Mr. Burke going  
2     through your accounts in June of 1989?

3    A.  As I said to you earlier on, my priorities had changed.  I  
4     had some personal family difficulties at the time.  I had a  
5     large company to try and run as well at the time.  And to  
6     deal with these allegations.  As I say, my priorities had  
7     changed.

268 Q.  Yes.  I suppose from Mr. Ahern's perspective, and I can't  
9     really speak for him, but this would have been a  
10    development in the matters that he had been discussing with  
11    you?

12  A.  From Mr. Ahern's prospective?

1  269 Q.  Yes?

14  A.  Maybe, yes.

1  270 Q.  Indeed I presume from your own perspective in the matters  
16    you had been dealing with Mr. Ahern, this was a development  
17    also?

18  A.  There was a lot of developments at the time.  It was like a  
19    jigsaw puzzle we had to put it altogether.

2  271 Q.  In any event, you didn't you contact Mr. Ahern in July or  
21    August of 1997?

22  A.  No.

2  272 Q.  And I think that there was subsequently contact on the 10th  
24    of September of 1997.  You had?

25  A.  Correct, but I think that before that in August time, I  
26    think that Mr. Burke had, in early August, had come out and  
27    made a statement.  Mr. Ahern would have been aware of that.

2  273 Q.  He had.  This was a statement that Mr. Burke issued through  
29    the press which was subsequently read into the Dail record  
30    on the 10th of September, 1997?

31  A.  Correct.

3  274 Q.  But the statement he issued in August was not, it was a



1 press statement, or I think, or an information statement?

2 A. That's correct, I think, yes.

275 Q. I think if you want to refresh your memory in relation to  
4 that I can give you, it is referred to in the Dail  
5 statement, it is in the Dail Statement of Mr. Ahern. I beg  
6 your pardon of Mr. Burke. And it is at page 617 and we  
7 will get you a copy of that. I think that in fact is the  
8 statement that you are referring to, Mr. Murphy?

9 A. Correct.

1 276 Q. (Document handed to witness) This was the statement that  
11 was issued by Mr. Ahern, by Mr. Burke I beg your pardon, on  
12 the 7th of August of 1997?

13 A. Correct.

1 277 Q. And was this drawn to your attention?

15 A. Yes.

1 278 Q. And you were aware of the fact that in the course of that  
17 statement, that Mr. Burke said he received a sum of £30,000  
18 as a totally unsolicited contribution in good faith from  
19 Mr. Gogarty, on behalf of JMSE?

20 A. Correct.

2 279 Q. And following receipt of that, or following information in  
22 relation to that did you contact Mr. Ahern?

23 A. No.

2 280 Q. You presumed that we have seen it for himself?

25 A. Of course.

2 281 Q. But between the date of that, of your meeting in July the  
27 1st of 1997 and the 7th of August of 1997, you didn't have  
28 any communication with Mr. Ahern?

29 A. Sorry, I missed the first part of the question there.

3 282 Q. I will repeat it Mr. Murphy?

31 A. Yes.

3 283 Q. Between the date of your last meeting which was the 1st of

1 July 1997 and the issuing of that statement which was the  
2 7th of August 1997, you did not have any communication with  
3 Mr. Ahern?

4 A. No.

284 Q. And your next communication, I think, with Mr. Ahern was on  
6 the 10th of September of 1997?

7 A. Correct.

285 Q. And you have prepared a memorandum following that meeting,  
9 is that correct?

10 A. Correct.

1 286 Q. And that memorandum, I think has been circulated to the  
12 relevant parties and, I will get you a copy of that  
13 memorandum now Mr. Ahern, Mr. Murphy. (Document handed to  
14 witness) May I ask you, Mr. Murphy, and I don't want to  
15 trespass on matters that would be matters of legal,  
16 professional privilege, why this wasn't furnished to the  
17 Tribunal before Mr. Ahern gave evidence?

18 A. I wasn't asked, specifically, for any memos in regards to  
19 Mr. Ahern until after he had given evidence.

2 287 Q. Had you made the existence of this memorandum; had you --  
21 Sorry, I don't want to trespass on matters that I shouldn't  
22 really be trespassing on, but you were aware that Mr. Ahern  
23 had circulated two memoranda in relation to his meetings  
24 with you on the 24th of June and the 1st of July?

25 A. Correct, yes.

2 288 Q. And when Mr. Ahern came to give evidence, matters were put  
27 to him in relation to these telephone conversations?

28 A. Correct.

2 289 Q. Presumably, again without going any further, in relation to  
30 the matter on foot of your instructions?

31 A. Correct.

3 290 Q. And you were aware at that time that you had a memorandum

1 in relation to those telephone conversations?

2 A. Yes.

291 Q. This was furnished to the Tribunal on the 15th of

4 September, 1999?

5 A. Correct.

6 .

7 MR. COONEY: It was in relation to a response to an Order

8 for Discovery which was instigated by Mr. Gogarty's

9 counsel.

1 292 Q. MS. DILLON: And Mr. Ahern gave evidence to the Tribunal

11 on the 5th of May of 1999?

12 A. Correct.

1 293 Q. Right. And did you not think that this was a relevant

14 matter to have furnished to the Tribunal?

15 .

16 MR. COONEY: With respect, Mr. Chairman, that is an I

17 improper question. May I elaborate on why I say this, Mr.

18 Chairman?

19 .

20 CHAIRMAN: Yes, certainly.

21 .

22 MR. COONEY: There is no obligation, as I said to you on

23 Thursday last, on any party to this Tribunal, witness or

24 otherwise, to furnish information to the Tribunal first of

25 all.

26 .

27 Secondly, this witness was being advised at that time.

28 Now, what decision made then was entirely a matter for his

29 legal advisors and he cannot be criticised on that,

30 Mr. Chairman. And again, may I point out, that this, even

31 this question if it was an appropriate, which it is not, is

32 typical, typical of a cross-examining question. It is

1 entirely improper in my respectful submission. It is a bad  
2 point to make against this witness. It is not a fair one.  
3 .

4 CHAIRMAN: First of all, may I inquire because I am not  
5 clear at the moment, what Order for Discovery was in  
6 existence when Mr.- vis-a-vis the Murphy papers, at the  
7 date when Mr. Ahern, at the date of Mr. Ahern's giving  
8 evidence?

9 .  
10 MS. DILLON: There were a number of Orders of Discovery  
11 from the previous year in 1998 in existence when Mr. Ahern  
12 gave evidence. The existence of this document would have  
13 been unknown to the Tribunal at that time.

14 .  
15 In cross-examination I think Mr. Cooney raised, for the  
16 first time, we had no notice of the fact of these telephone  
17 conversations having been taken place. The first time that  
18 this matter was adverted to was when Mr. Ahern was being  
19 cross-examined by Mr. Cooney. And subsequently an  
20 application in relation to discovery was brought which is,  
21 I cannot remember exactly the date, it encompassed a number  
22 of other matters, other than this memorandum and it  
23 referred also, I think, from memory only, to the file that  
24 Mr. Murphy had with him at the meeting with Mr. Ahern as  
25 well. There were other matters raised in relation to that,  
26 and the document was furnished on foot of that.

27 .  
28 CHAIRMAN: That is all I wanted to know. I wanted to know  
29 the status of the discovery, that is all I wanted to know.

30 .  
31 MR. COONEY: This document was not captured by the earlier  
32 Orders for Discovery, Mr. Chairman. And I cross-examined

1 Mr. Ahern about the telephone conversation, he denied that  
2 they ever occurred, initially. Then I reminded him of the  
3 details.

4 .

5 CHAIRMAN: He denied the telephone calls?

6 .

7 MR. COONEY: Initially. Then when I put the details to  
8 him, he said they may have happened, but he had no memory  
9 of them.

10 .

11 CHAIRMAN: Wait now, just a moment. May I fully  
12 understand you Mr. Cooney? You are saying that Mr. Ahern,  
13 in his evidence, denied that there had been telephone  
14 calls.

15 .

16 MR. COONEY: Yes.

17 .

18 CHAIRMAN: I beg your pardon, thank you very much.

19 .

20 MR. COONEY: It is on the transcript in  
21 cross-examination.

22 .

23 CHAIRMAN: That is all right.

24 .

25 MR. COONEY: He denied them. I don't think he was trying  
26 to mislead the Tribunal. He simply didn't remember them,  
27 Mr. Chairman. He continued to say during the course of  
28 cross-examination, subsequently I was putting the details  
29 to him; "yes, they may have occurred but I don't remember  
30 them".

31 .

32 Subsequently, Mr. Chairman, as I recall it and I am subject

1 to correction about this, Mr. Gogarty's counsel wrote a  
2 letter to the Tribunal and indeed sent a copy to us,  
3 requiring discovery of a long list of documents, a long  
4 list of categories of documents, and we objected to this on  
5 the basis that Mr. Gogarty had no right to seek discovery  
6 against us, but the Tribunal adopted that application and  
7 you may remember, there was indeed some argument about  
8 this. Eventually you made an Order and again my memory, I  
9 hope my memory is right about this, that Order captured  
10 this document.

11 .

12 CHAIRMAN: I see.

13 .

14 MR. COONEY: I think that is the sequence of events.

15 .

16 CHAIRMAN: Thank you Mr. Cooney.

1 294 Q. MS. DILLON: Now, Mr. Murphy, what I was asking you about  
18 was you were aware of the fact that Mr. Ahern was going to  
19 give evidence?

20 A. I was.

2 295 Q. And you were aware of the existence of this document?

22 A. I was.

2 296 Q. And this document was not furnished to the Tribunal?

24 A. It wasn't asked for at the time. It wasn't in the original  
25 Orders of Discovery.

26 .

27 CHAIRMAN: That is the state of it. It wasn't asked for.

28 But then we didn't know about it. We couldn't very well  
29 ask for it if we didn't know about it; isn't that so?

30 .

31 MR. COONEY: Mr. Chairman, I am objecting to this line of  
32 questioning. I am respectfully asking you for a ruling

1 now. This is strictly on the legal merits. Mr. Chairman,  
2 I am objecting (A) On grounds that this is  
3 cross-examination and Ms. Dillon is not entitled to  
4 cross-examine this witness.

5 .

6 (B) That it is an improper question on the basis that this  
7 information, that the witness is not legally obliged to  
8 furnish any document to this Tribunal unless an order for  
9 production or discovery has been made to him, and no order  
10 for production or discovery was then in existence which  
11 related to this document.

12 .

13 (C) I am objecting on the grounds that it is a poor point  
14 to make against a lay witness in the witness-box, that this  
15 is essentially a matter for his legal advisors and this  
16 matter should not be pursued, in my respectful submission.

17 .

18 CHAIRMAN: Ms. Dillon?

19 .

20 MS. DILLON: I am trying to set out the sequence of events  
21 Sir, as I understand, Sir, what happened in this  
22 circumstances, were that Mr. Dermot Ahern furnished a  
23 statement to the Tribunal, attached to which were two  
24 memoranda of two interviews that he had conducted with this  
25 witness; one in London on the 24th of June, and one in  
26 Dublin on the 1st of July. They were circulated to all  
27 relevant parties, including this witness.

28 .

29 Then in the course of cross-examination of Mr. Ahern,  
30 reference was made to these telephone conversations on the  
31 10th of September, 1997. It transpired that there was a  
32 memoranda prepared by this witness in existence in relation

1 to this matter which had not been circulated and of which  
2 Mr. Ahern had not had any notice. I am simply seeking only  
3 to inquire as to how that happened. No more and no less.  
4 However if Mr. Cooney wishes me to abandon this line of  
5 questioning I am quite happy to do so.

6 .  
7 CHAIRMAN: It is not Mr. Cooney. I think Mr. Cooney is  
8 correct, he is certainly correct in saying that there is no  
9 law and no statutory obligation to furnish statements. I  
10 mean -- secondly, he is correct that if there was no order  
11 for discovery then the document did not have to be  
12 produced. I mean by compulsion. What other inferences may  
13 or may not be drawn thereafter is another matter entirely  
14 and will may or may not arise. I don't know. But I think  
15 Mr. Cooney is correct in saying that you cannot  
16 cross-examine this witness as to why he did not discover  
17 the document. You can certainly cross-examine him as to  
18 the content, as to whether the content is correct or not,  
19 that is a different matter. But as to why it was produced  
20 was not produced I beg your pardon, that is not a fair,  
21 that is not a relevant, it is not a question of fair, it is  
22 not a relevant matter because there was no obligation on  
23 the man to do it and no obligation on Mr. Cooney and his  
24 instructing solicitors to do it. That is as I see it. I  
25 think that is correct.

26  
27 MR. COONEY: May it please you, Mr. Chairman. May I just  
28 say for completeness, as well. I think at that stage,  
29 again perhaps I may be wrong about this, but shortly before  
30 he gave evidence or at some time before he gave evidence,  
31 Mr. Ahern had made what we considered to be a misleading  
32 statement, in the course of a television programme.



1 .

2 CHAIRMAN: That is a different matter. I am not going  
3 into that at this point in time. I am dealing with the  
4 question you asked me to rule on. In what I believe to be  
5 correct.

6 .

7 MR. COONEY: May it please you.

8 .

9 MS. DILLON: Yes Sir, it should be borne in mind that you  
10 had originally set out the procedure for this Tribunal  
11 which included your requirement that fairness would require  
12 that prior notice be given to all parties affected in  
13 relation to the matter and in the light of that, I felt it  
14 was not unreasonable --

15 .

16 CHAIRMAN: Well, we will pass from why it was not made  
17 available to the content, if you say it is relevant to the  
18 content now.

1 297 Q. MS. DILLON: You prepared a memoranda following a number  
20 of telephone conversations, Mr. Murphy, with Mr. Dermot  
21 Ahern; is that correct?

22 A. Correct.

2 298 Q. Can you tell me from your memory first of all, and you may  
24 refresh your memory from the document that is in front of  
25 you, if you need it, the sequence of events, as you  
26 recollect it?

27 A. As I recollect it, my wife phoned me at work and told me  
28 that somebody was after ringing the house and, Dermot, he  
29 wouldn't leave his second name, he wished to speak to me.

3 299 Q. And did she have a number?

31 A. No, I had the number.

3 300 Q. And when you heard the name "Dermot" did you assume that it

1 was Mr. Dermot Ahern?

2 A. Yes.

301 Q. Yes. So the initial contact occurred when, approximately,

4 Mr. Murphy?

5 A. Approximately, as I have said in my statement, maybe nine

6 o'clock-ish.

302 Q. And what happened then?

8 A. I phoned Mr. Ahern back on his mobile, and I spoke to him

9 for a short length of time. I told him that I had intended

10 to ring him because after close examination we had pieced

11 together the information on this Ray Burke payment, and I

12 said that it looked like that Mr. Burke got £20,000 in cash

13 and £10,000 in a cheque. I told him that certain

14 information had come from our solicitors at the time and

15 this looked like the case and I wanted to clear up this

16 grey area for him. He thanked me very much for this

17 information but said he was a little bit tied up at the

18 moment and would phone me back.

1 303 Q. And I think you furnished to the Tribunal in relation to

20 that telephone call or, you can correct me if I am wrong, a

21 British Telecom print-out; is that correct?

22 A. Correct.

2 304 Q. A record in relation to that and that is JMSE 31-4 if a

24 copy of that should be given to the witness. I should say

25 before, I think Mr. Murphy may be able to help us in

26 relation to this. Some of the words at the bottom of this

27 are slightly illegible, I think that we will be able to

28 work it out. I think that refers to the copy, this was

29 furnished by you, I think Mr. Murphy, your solicitors, on

30 your behalf to the Tribunal?

31 A. Correct.

3 305 Q. And this refers to the 10th of September (document handed

1 to witness) and the time is 10:13, and it is Ireland,  
2 Republic, it gives a telephone number which we needn't go  
3 into. That is the telephone number you rang?

4 A. Correct.

306 Q. And the duration of the call is 01.56, 01.56; is that  
6 correct?

7 A. Correct.

307 Q. And there is a rate given then, a cost given which is I  
9 think probably 3.72p?

10 A. Yes.

1 308 Q. And was this your first telephone call with Mr. Ahern?

12 A. Yes.

1 309 Q. Yes; and in this conversation you told him that you had  
14 intended ringing him because you had now discovered what  
15 the situation was in relation to the payment to Mr. Ray  
16 Burke?

17 A. Correct.

1 310 Q. And he was in a hurry, I think you said, and he was to ring  
19 you back?

20 A. Yes.

2 311 Q. And did he ring you back?

22 A. He did.

2 312 Q. And when did he ring you back?

24 A. Within a 20 minute period, I think.

2 313 Q. And can you tell us about that conversation?

26 A. Well, as I said he said that the reason that he was ringing  
27 me that day, that morning, was that as I probably knew Mr.  
28 Ray Burke was making a very important speech on this issue  
29 to the Dail that day, and he, they wanted to help him as  
30 much as possible. He said that he wanted to find out from  
31 me if JMSE had made payments to other political parties,  
32 substantial payments or whatever, so Mr. Burke could use

1 this in his speech to the Dail that day.  
2 .  
3 I think that I have it there on my statement. He used, I  
4 think he said that it would be a good line for Mr. Burke to  
5 attack the opposition. I think that the word "ammunition"  
6 may have been used as well for the opposition parties. I  
7 explained to Mr. Ahern that JMSE made a number of small  
8 contributions to political parties in or around election  
9 time in the £300, £500 bracket. I would have emphasised to  
10 him that all of these were payments in good faith and that  
11 I wouldn't be happy if he were to use JMSE in this way, in  
12 Mr. Burke's statement.

13 .  
14 And he said that "no" that that wouldn't be fair. I asked  
15 him then how things were looking, definitely there was a  
16 Tribunal being bandied around at that time in the media and  
17 what not; and I asked him how it was looking for Fianna  
18 Fail? And he said that they were anxious to avoid a  
19 Tribunal, and that if Mr. Burke's speech didn't work that  
20 day, that he would have no problem, they would have no  
21 problem putting Burke out to grass.

2 314 Q. Now, Mr. Ahern has said he doesn't recollect these phone  
23 calls, but --.

24 A. I think that to be fair to Mr. Ahern, when he was up here  
25 in the witness-box, he couldn't remember, I think if we  
26 look at the transcripts, his memory of all my conversations  
27 was very hazy, but obviously this conversation did occur.

2 315 Q. Yes; and I think Mr. Ahern said that while he accepted that  
29 there may have been telephone calls he did not recollect  
30 the content, he disagreed with what you have said in  
31 relation to the content?

32 A. I would just like to emphasise, Ms. Dillon here, that it is

1     inconceivable that I would have, that I wouldn't have told  
2     Mr. Ahern on the 10th of September what I knew, considering  
3     the fact that Mr. Burke's solicitors had written to our  
4     solicitors seeking out certain information, and it was  
5     quite possible, if not probable that Mr. Burke was going to  
6     use it in his speech that day; so it is inconceivable that  
7     I wouldn't have told him that.

316 Q. Yes.

9     A. Mr. Ahern may well not remember.

1 317 Q. Yes; so that you spoke to him on two occasions on that  
11     date?

12 A. Yes, that the -- yes, I spoke to him twice.

1 318 Q. And Mr. Cooney, when Mr. Ahern was being cross-examined by  
14     Mr. Cooney, Mr. Cooney requested him to agree to furnish  
15     his telephone records; do you recollect that?

16 A. I do.

1 319 Q. And Mr. Ahern did subsequently furnish telephone records in  
18     relation to this particular date and this particular  
19     telephone number?

20 A. Yes.

2 320 Q. And you have seen those telephone records?

22 A. I have.

2 321 Q. And if a copy of that could be handed to Mr. Murphy,  
24     please? (Document handed to witness) Now, the document is  
25     entitled "Department of Social and Community Affairs" you  
26     have that, it is a record of the telephone calls that were  
27     made to a certain number on the 10th of September of 1997?

28 A. Correct.

2 322 Q. Does Mr. Cooney have this document?

30     .

31     MR. COONEY: Yes.

3 323 Q. MS. DILLON: Yes; and it sets out in very much the same

1 way as the British Telecom document have previously set  
2 out, the time, the date, the place, the duration and the  
3 cost?

4 A. Yes.

324 Q. Yes. So the first telephone call on the 10th of the 9th  
6 that is referred to there is "10:24 OTG" I presume means  
7 "outgoing" and the telephone number is your telephone  
8 number at work; is that correct?

9 A. Correct.

1 325 Q. And the time of that telephone duration was two minutes and  
11 18 seconds?

12 A. Correct.

1 326 Q. And there is a price given there?

14 A. Yes.

1 327 Q. And then beneath that, on the same date, there is 9:40  
16 outgoing, "London outer" and the telephone number there  
17 again, is your telephone number at work?

18 A. That's correct.

1 328 Q. And the duration there is nine minutes and the cost is  
20 2.185?

21 A. Correct.

2 329 Q. That would appear to be three telephone communications  
23 between yourself and Mr. Ahern, Mr. Murphy, if we take  
24 them?

25 A. Yes, that would seem to be the case, yes, but I don't know,  
26 on top of that it says number dialed or ring time, so I  
27 don't know whether, this obviously is an extension in the  
28 Dail and I don't know if Mr. Ahern was dialing a number or  
29 two minutes, whether that would come up like in a normal  
30 phone where the duration of time, I mean this is very  
31 confusing to me; I mean it does point out that there was  
32 communication with us that morning, but why is the 9:40

1 call underneath the 10:24 one?

330 Q. If we just deal with and see if you disagree with what is  
3 said there or not. That seems to indicate that at 9:40 on  
4 the 10th of September, there was a telephone call to your  
5 number which lasted approximately nine minutes?

6 A. That would seem to suggest that, yes.

331 Q. Yes. Does that accord with your recollection?

8 A. No.

332 Q. Right.

10 A. I think that this is somewhat jumbled up. I think the 10:24  
11 call should be nine minutes and the other one two minutes  
12 18. I think there is some sort of mistake here. But he  
13 definitely, I think in evidence, we have to be fair here,  
14 that Mr. Ahern has not denied speaking to my wife that  
15 morning, so my home telephone number in the earlier call  
16 isn't on this. So maybe, I mean, has he done a check on  
17 his mobile as well? This is an exchange into the Dail?  
18 Has he supplied his mobile --

1 333 Q. Are you suggesting that there were more than three  
20 telephone calls between yourself and Mr. Ahern on the 10th  
21 of September?

22 A. No. There were a series of three phone calls of which we  
23 spoke twice.

2 334 Q. That had been my understanding.

25 .

26 MR. COONEY: Just a moment. Just a moment Mr. Chairman,  
27 Mr. Ahern denied that these calls ever took place. This  
28 witness said they did with considerable detail and this  
29 witnesses evidence is corroborated. I am not blaming Mr.  
30 Ahern for a lapse of memory on his part. Why should this  
31 witness be cross-examined on something upon which he was  
32 definitely right and the opposing witness, if I call him

1 that, has no memory of it at all? What is the purpose of  
2 this cross-examination in view of those established facts,  
3 Mr. Chairman?

4 .

5 MS. DILLON: This is not a cross-examination and the  
6 purpose of the questions I am asking is the witness' direct  
7 evidence and the cross-examination by Mr. Cooney of Mr.  
8 Ahern on foot of instructions presumably from this witness,  
9 were that he spoke on two occasions himself on the 10th of  
10 September 1997 to Mr. Ahern. The documentation supplied by  
11 this witness and the documentation supplied by Mr. Ahern,  
12 on foot of a request made by Mr. Cooney, in  
13 cross-examination, indicate that there were three telephone  
14 calls, two of which were outgoing from Ireland to this  
15 witnesses business number. I am simply seeking to  
16 establish does this correspond with this witnesses  
17 recollection or not. No more.

18 .

19 CHAIRMAN: May I just intervene here. Again like Mr.  
20 Ahern, this witness is capable of forgetting whether there  
21 were one, two or three. The documentation which is  
22 mechanical, says there was one from him, there were two  
23 from Mr. Ahern to the number. It doesn't necessarily mean  
24 that Mr. Ahern and he spoke twice. You can get a call  
25 through, not available, and a second call is put through.  
26 There has to be a reasonable approach to that situation.

27 .

28 MR. COONEY: I agree. But surely --

29 .

30 CHAIRMAN: Please leave it at that.

31 .

32 MR. COONEY: I beg your pardon, surely Mr. Chairman, the



1 whole point of this portion of the evidence is whose

2 recollection is correct about these telephone calls?

3 .

4 CHAIRMAN: We have discovered what happened. Mechanically

5 recorded, and we apply common sense to it.

6 .

7 MR. COONEY: I respectfully agree, Mr. Chairman, so may I

8 respectfully --

9 .

10 CHAIRMAN: Can I pass on from it? There is no point in

11 this discussion. We are not going to resolve it.

12

13 MR. COONEY: All I am asking is, Mr. Chairman, what is the

14 point of all of this?

15 .

16 CHAIRMAN: Mr. Cooney, I am doing my best to get the

17 matter to move along.

18 .

19 MR. COONEY: All right. Very well. I am sorry for

20 interrupting.

21 .

22 CHAIRMAN: Now, I understand the point you are making, Ms.

23 Dillon, but I don't think we are ever going to resolve to

24 any finite point.

25 .

26 MS. DILLON: We did obtain the mobile numbers of Mr.

27 Ahern. I am instructed, Sir, and they do not indicate any

28 calls.

29 .

30 CHAIRMAN: Well, I again accept that as being stated by

31 counsel without actually getting the document. I accept

32 that. Now, is there any other aspect of the matter that

1 you want to put?

2 .

3 MS. DILLON: Yes there is one further document that, for

4 completeness and particularly in light of the query that

5 was quite validly raised by Mr. Murphy, that there might

6 have been calls made from some place else on that date to

7 him; that we did receive a communication from the Offices

8 of the Houses of the Oireachtas, Leinster House, from the

9 Clerk of the Dail, in relation to an inquiry that had been

10 conducted on behalf of the Tribunal, at the behest I

11 understand, of Mr. Ahern, and that document can be handed

12 to the witness I think -- and yes, I will just outline it

13 and then we will hand it to the witness.

14 .

15 It says "I confirm that Eircom have analysed call records

16 in respect of traffic from all lines connected to Leinster

17 House PABX and found that no calls were made to the number

18 specified in your letter of 3rd September during the period

19 of 26th August 1997 to 25th October 1997". That in fact

20 had been an inquiry that was made as to whether outside the

21 system, that is referred to here, it was possible that a

22 call might have been made.

23 .

24 CHAIRMAN: We also have the other letter on the mobile.

25 .

26 MS. DILLON: Yes.

27 .

28 CHAIRMAN: We can take the matter as evidentially complete

29 as it be made.

30 .

3 335 Q. MS. DILLON: Yes, so that it would appear, therefore, Mr.

32 Murphy, that you dispute this document as being an accurate

1 record?

2 A. No, no, Ms. Dillon, I must clarify this.

336 Q. Absolutely?

4 A. The one, I am not disputing the records or whatever, but  
5 the one thing for want of a better word, that is confusing  
6 me, and that Mr. Ahern when he was in this witness-box, did  
7 agree that he spoke to my wife on one occasion, so what I  
8 can't understand is how my home telephone number, which he  
9 had rung earlier that morning, doesn't come up on any  
10 document; but I mean I think we are splitting hairs here,  
11 but there was three telephone calls that morning.

1 337 Q. Yes, but the telephone call that lasted nine minutes was  
13 the one at 9:40 according to this record?

14 A. According to that record, but my recollection is that the  
15 longer telephone conversation was after my, my one from  
16 London to him.

1 338 Q. Which had been at 10:13?

18 A. Correct.

1 339 Q. According to your records?

20 A. So my knowledge of this would be that there is some mix-up  
21 here and that may be that 9:40 outgoing should be the 2:18  
22 and the 10:24 then should be the nine minutes. I mean, I  
23 just don't know. But my recollection is that the longer  
24 telephone, certainly the longer telephone conversation with  
25 Mr. Ahern was after my phone call to him.

2 340 Q. But the documentary record would appear to suggest  
27 otherwise, Mr. Murphy and I put it no stronger than that?

28 A. Well, it shows that we had contact that morning, it shows  
29 there was three telephone conversations. As I say my  
30 memory is that the longer one was the later one. I don't  
31 know.

3 341 Q. Mr. Ahern disagrees with your recollection in relation to

1 those telephone conversations. Nothing turns on that. I

2 want to briefly refer to your statement --

3 .

4 MR. COONEY: He doesn't disagree. He doesn't remember the

5 telephone calls. How can Ms. Dillon --

6 .

7 MS. DILLON: I think Mr. Ahern's evidence had been that he

8 could not recollect the phone calls, but would accept that

9 there may have been phone calls.

10 .

11 MR. COONEY: Then if there were -- .

12 .

13 CHAIRMAN: We are going on to something else now.

14 .

15 MS. DILLON: The only matter that is left to deal with, in

16 fact I am satisfied that I have dealt with the matter

17 contained in Mr. Murphy's statement with the exception of

18 one item. I think all matters that Mr. Murphy dealt with

19 there have in fact been dealt with in detail. If Mr.

20 Murphy --

21 .

22 MR. COONEY: I wonder could Ms. Dillon indicate at what

23 portion of her examination she referred specifically to his

24 first statement and took him through it?

25 .

26 MS. DILLON: The topics that Mr. Murphy identified in his

27 statement have been dealt with by me over the four days of

28 evidence that have been given by this witness. If Mr.

29 Murphy wishes to go through his statement and indicate any

30 error, I am aware of one that was not dealt with by me, I

31 will be quite happy to deal with that in detail.

32 .

1 MR. COONEY: I wonder could I ask Ms. Dillon, when during  
2 those four days she actually referred to his statement and  
3 took him through his statement to answer the allegations  
4 actually made against him, by Mr. Gogarty?

5 .

6 MS. DILLON: Sir, could I just make --

7 .

8 CHAIRMAN: I have already heard the submission of Ms.  
9 Dillon on that very point. She simply says "I have looked  
10 at the topics which are covered in his statement, and I  
11 have asked him questions about them". She is not obliged  
12 to actually, verbatim, if he wishes to read through his  
13 statement into the record he is welcome to do it now, if  
14 that is your desire; or alternatively he is entitled to say  
15 "I haven't dealt with this aspect of my statement at the  
16 moment and I want to do so". I have no objection to that.

17 .

18 But Ms. Dillon must be able to conduct her examination not  
19 necessarily verbatim from the statement. Now, that is all  
20 I am saying on that and it seems to me perfectly usual,  
21 this is a briefing statement like one gets in a counsel's  
22 brief and you conduct your examination on the basis of it.

23 .

24 MR. COONEY: Very well Mr. Chairman. May I just say for  
25 the record, that is not what has happened. If Ms. Dillon  
26 referred to specific portions of Mr. Murphy's statement I  
27 don't think she did specifically, if she did it was for the  
28 purpose generally of trying to undermine what was said in  
29 that statement and that he wasn't treated in the same way  
30 that Mr. Gogarty was, whereas Mr. Gogarty's affidavit was  
31 made an exhibit in these proceedings in the first half an  
32 hour that he was in the witness box and his examination by

1 Mr. Gallagher then followed that statement from beginning  
2 to end.

3 .

4 Mr. Chairman, I do recall that something similar happened  
5 to Mr. Bailey. He was cross-examined by Mr. O'Neill for  
6 about four or five days. Then quite casually and nominally  
7 towards the end of his evidence, "by the way that is your  
8 statement", it was read out. That is your statement and  
9 that was the end of it.

10 .

11 MS. DILLON: Sir, I do not seek to undermine this  
12 witnesses evidence. That is not my intention and that is  
13 not what I have been doing.

14 .

15 This is a Tribunal of Inquiry into fact. A witness  
16 statement is supplied for circulation to parties who are  
17 deemed to have an interest in the matters relevant. In the  
18 same way that all of the other witness statements are  
19 circulated. It is not, as I understand it, the function of  
20 a Tribunal of inquiry to slavishly follow every witnesses  
21 statement without inquiring deeper and further into the  
22 matters set out in the statement.

23 .

24 I have taken all of the topics outlined by Mr. Murphy in  
25 his statement and I have dealt with those with him over  
26 four days and including today. I reject Mr. Cooney's  
27 allegation, that I am trying to undermine this  
28 witness'evidence and I object; and sorry, on behalf of Mr.  
29 O'Neill, who dealt with Mr. Bailey, insofar as there is any  
30 innuendo that a similar allegation is being made against  
31 Mr. O'Neill, on his behalf I reject that also.

32 .

1 I do not think that I have dealt in anyway unfairly with  
2 this witness. I have not cross-examined him. And I have  
3 not treated him in any unfair manner. He has seemed to me,  
4 purely by way of comment, to be quite comfortable in the  
5 witness-box and I feel that Mr. Murphy is quite capable of  
6 saying "I don't think that is fair". If and when that  
7 arose. I have treated him, at all times, with courtesy.

8 .

9 CHAIRMAN: I think at this moment in time we will adjourn  
10 for lunch. And in due course of time, if Mr. --

11 .

12 MS. DILLON: There is only one matter --

13 .

14 CHAIRMAN: Just a moment, if Mr. Cooney has any matters  
15 which he feels have not been fairly dealt with, because I  
16 have no wish to in anyway unfairly deal with the witness,  
17 it is within your competence, it may not be within your  
18 requirement, but it is within your competence to correct it  
19 when you come to deal with your client. And I have no  
20 doubt you will do so. And I will note, or rather the  
21 transcript will note, and I will consider your comments as  
22 part and parcel of the evidence given. And there is  
23 nothing unfair in the end product.

24

25 MR. COONEY: I respectfully agree with that Mr. Chairman,  
26 but my point is, of course I will do it, but it is quite a  
27 different matter when I bring him through his statement.  
28 It is the Counsel for the Tribunal should have done so, and  
29 hadn't done so.

30 .

31 CHAIRMAN: Well, that is a matter of comment as to how  
32 counsel conducts an inquiry and I believe that Ms. Dillon

1 conducted the inquiry in a proper manner and in no way  
2 unfairly. If there is any aspect of it which you want to  
3 bring to my notice, when you come to deal with your  
4 witness, I will take every account of it and give it full  
5 credence.

6 .

7 MR. COONEY: I understand that, Mr. Chairman.

8 .

9 CHAIRMAN: Thank you very much. We will rise now for  
10 lunch.

11 .

12 MS. DILLON: Sir, I only have one matter, it is literally  
13 five minutes.

14 .

15 CHAIRMAN: Very well. Certainly.

1 342 Q. MS. DILLON: That in fact has not been put as I had  
17 indicated to Mr. Murphy, that is in his statement. It is a  
18 matter in the last two paragraphs that he may wish to deal  
19 with and I feel, in fairness, I am quite lap tea to leave  
20 it until a quarter past two?

21 .

22 CHAIRMAN: No, no, finish.

2 343 Q. MS. DILLON: At paragraph 34 of your statement, Mr.  
24 Murphy, you say that?

25 A. Could I have the statement please?

2 344 Q. Yes, of course. It is coming (document handed to  
27 witness): "I know nothing whatsoever of the alleged hoax  
28 telephone call to Mr. Gogarty to the effect that his  
29 youngest son was being held at Howth Garda Station in  
30 connection with the possession of drugs. I had no  
31 involvement in the making of that alleged call". You  
32 recollect putting this into your statement?



1 A. Of course.

345 Q. Yes; and that is your position in relation to the matter?

3 A. Rubbish.

346 Q. Yes; and that is not a matter which I had dealt with in the

5 last four days.

6 A. It is more of Mr. Gogarty's rubbish.

7 .

8 MR. COONEY: Yes, it was a matter that was in Mr.

9 Gogarty's Statement of Evidence, but about which, as far as

10 I recollect he didn't actually give evidence in the

11 witness-box. It is quite extraordinary that Ms. Dillon

12 should finish her examination by asking him to read

13 something in a statement, to deny something which actually

14 wasn't said.

15 .

16 MS. DILLON: Very good.

17 .

18 CHAIRMAN: We are rising for lunch at this moment in

19 time. Thank you very much.

20 .

21 MS. DILLON: One final matter. Thank you, Sir.

22 .

23 THE HEARING THEN ADJOURNED FOR LUNCH.

24 .

25 .

26 .

27 .

28 .

29 .

30 .

31 .

32 .

1 .

2 .

3 THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

4 .

5 JOSEPH MURPHY CONTINUED IN EXAMINATION AS FOLLOWS BY MS.

6 DILLON:

7 .

347 Q. MS. DILLON: Good afternoon Sir. Good afternoon Mr.

9 Murphy.

10 A. Afternoon.

1 348 Q. I want to give back to you the document you had before

12 lunch, DA 1-29, which is the telephone records from Mr.

13 Ahern. No, I am sorry, Ms. Howard, I want to give him a

14 copy of this document - a query arose, Sir, in relation to

15 the juxtapositioning of the telephone calls that were

16 referred to in that document, and over lunch Ms. Howard

17 explained to me, that when the document came in originally

18 from Mr. Ahern, at DA 1-29 Tribunal reference, there were

19 in fact six phone numbers on the card, or that dealt with

20 the date, the 10th of September of 1997.

21 .

22 In view of the confidentiality, because the other numbers

23 did not relate to matters between Mr. Murphy and Mr. Ahern,

24 the other four numbers were blocked out, and having been

25 blocked out the document was photocopied and circulated in

26 the form in which it was given to Mr. Murphy this morning,

27 and Mr. Murphy, felt I think, that there may have been some

28 juxtapositioning in relation to the document, so over lunch

29 the document in its original form was obtained, and simply

30 the telephone numbers and nothing else in relation to the

31 other calls were blocked out. That document is now on the

32 screen.

1 .  
2 That document shows six telephone calls on the 10th of the  
3 9th, two of which are the relevant telephone calls that we  
4 had been talking about before lunch. And from that  
5 document it appears that, it moves in ascending order from  
6 the bottom of the page, if one looks at time, hours and  
7 minutes.

8 .  
9 The first call logged on that day was 9:40 to a particular  
10 number in London. The second call was 9:56 to a number  
11 that is not relevant. The third number was 10:24, again  
12 to the London number. There was a telephone call at  
13 10:34, outgoing number not relevant. 11:44, number not  
14 relevant, and 19:42, number not relevant, and then the  
15 duration and time and cost are set out on the other side of  
16 the document.

17 .  
18 And I am simply putting the document in this form now, in  
19 its more complete form to Mr. Murphy for completeness and  
20 for fairness sake.

21 .  
22 We had blocked out everything that was on the original  
23 document that was given to Mr. Murphy for view, in view of  
24 confidentiality and relevancy. Mr. Murphy, that document  
25 as - do you see the document in front of you with the  
26 numbers blacked out?

27 A. I do.

2 349 Q. That is the complete document of the document I had shown  
29 you this morning which only had the two numbers on it,  
30 referring to your phone calls and that I think, seems to  
31 suggest that the phone calls go in ascending order from  
32 time, if you see from the bottom?

1 A. Correct, yeah.

350 Q. It works its way up. That was one of the queries you quite  
3 properly raised this morning, that seems to clarify the  
4 matter in relation, now that we see the entire document?

5 A. Okay.

351 Q. Yes.

7 .

8 CHAIRMAN: Thank you. That concludes?

9 .

10 MS. DILLON: Yes, Sir, I have nothing further in relation  
11 to this witness at this time.

12 .

13 CHAIRPERSON: Thank you. Well now, who is the next --

14 .

15 MR. CALLANAN: I think it falls to me, Sir?

16 .

17 MR. WALSH: Sorry, Mr. Chairman, I think it falls to me  
18 first, but at this moment in time Mr. Fox and I would like  
19 to reserve our position until after the cross-examination  
20 has taken place, we have no questions.

21 .

22 CHAIRMAN: Very good. All right. Now, who goes next?

23 Mr. Ahern or Mr. Gogarty? Mr. Gogarty I would have  
24 thought.

25 .

26 MR. CALLANAN: Yes, I am perfectly happy to do that.

27 .

28 CHAIRPERSON: Is that all right?

29 .

30 MR. MOHAN: Yes.

31 .

32 CHAIRMAN: All smiling?

1 .

2 MS. DILLON: Is Mr. Cooney happy that Mr. Burke's counsel  
3 wish to examine this witness, they will do so after him,  
4 that's what I understood Mr. Burke's counsel to say.

5 .

6 MR. COONEY: I don't think he means that.

7 .

8 MR. WALSH: No, after Mr. Callanan and after Mr. Mohan.

9 .

10 CHAIRPERSON: No, Mr. Cooney and the Tribunal are the last  
11 two.

12 .

13 MR. COONEY: Yes, may it please you.

14 .

15 CHAIRPERSON: Very good.

16 .

17 MR. CALLANAN: I should say at the outset, Sir, I am  
18 conscious that I wasn't present for the, most of the first  
19 day of Mr. Murphy's evidence, for which I apologise, Sir.  
20 I had two commitments which I couldn't avoid and which then  
21 ran on longer than I had expected. Sorry, Sir, that arose  
22 and --

23 .

24 CHAIRMAN: Well, you have a full transcript so you are  
25 aware of what went on?

26 .

27 MR. CALLANAN: Yes, Sir.

28 .

29 CHAIRPERSON: Very good. Carry on in the  
30 circumstances.

31 .

32 THE WITNESS WAS THEN CROSS-EXAMINED BY MR. CALLANAN AS

1 FOLLOWS:

2 .

352 Q. MR. CALLANAN: It might speed things up, Mr. Murphy, if I

4 can summarise just the main matters which are in issue

5 between Mr. Gogarty and yourself.

6 .

7 Firstly, Mr. Gogarty says that you attended a meeting with

8 George Redmond shortly prior to the 10th of May of 1988 at

9 the offices of Dublin County Council, and you deny that;

10 isn't that so?

11 A. That's complete lies.

1 353 Q. And he says that you made a payment to Mr. Redmond which he

13 believed to be in the sum of £15,000 at a meeting in

14 Clontarf Castle in late June of 1989, and again you dispute

15 that?

16 A. Well, if I may just step back a little bit to the first

17 accusation you made there? I would like to point out that

18 in Mr. Gogarty's affidavit he has said that that meeting

19 with Mr. Redmond in 1988 was late May, early June. He

20 subsequently changed that date, I think to the 10th of May,

21 and that was subsequently changed for a third time to a

22 couple of days before the 10th of May.

23 .

24 CHAIRMAN: Well, thank you very much, Mr. Murphy, but, and

25 I am in no way being discourteous to you, if you just

26 answer the particular questions, that's a comment, which I

27 think your counsel can more properly draw attention to. I

28 don't want in anyway to be discourteous to you.

29 .

30 MR. CALLANAN: All I am seeking to do is to identify the

31 chief matters in issue.

32 .

1 CHAIRMAN: Otherwise we will go back in narrative, it is  
2 question and answer. I am trying to get the scene back to  
3 questions and answers so far as possible.

4 A. That's fine, Sir. Thank you.

5 .

354 Q. MR. CALLANAN: And Mr. Gogarty says that you attended two  
7 meetings along with Mr. Reynolds, which Mr. Gogarty also  
8 attended, prior to the 8th of June of 1989, in relation to  
9 what was to be done with the lands in North Dublin, and I  
10 think again you deny that?

11 A. Yes.

1 355 Q. And he says that you were present at JMSE on the, in the  
13 Santry premises on the 8th of June when the monies and  
14 cheques for Mr. Burke were put together, and again you  
15 reject that?

16 A. Incorrect, I was in London on the 8th.

1 356 Q. And he likewise says that a few days after that, you went  
18 out to Mr. Burke's house with Mr. Gogarty and Mr. Bailey  
19 for the meeting at which the monies were paid over to Mr.  
20 Burke, I think you also deny that, Mr. Murphy?

21 A. Yes.

2 357 Q. And he says that you and Mr. Reynolds were partisans of  
23 effectively, a joint venture with the Baileys to develop  
24 the lands, you don't accept that; isn't that so?

25 A. No.

2 358 Q. And Mr. Gogarty likewise, said that your father was  
27 concerned because of the Conroy proceedings and his tax  
28 situation to dispose of the lands outright, and I think you  
29 reject any issue of any difference of view between yourself  
30 and your father, or the suggestion that the motivation for  
31 the sale of the lands was in anyway connected to the Conroy  
32 proceedings; isn't that so?

1 A. I do. That's correct.

359 Q. And the final major point in issue between you and Mr.

3 Gogarty, is that Mr. Gogarty says you were in attendance at

4 a meeting with the Baileys, with Mr. Reynolds and Mr.

5 Gogarty himself, in the Swiss Cottage at the end of July or

6 early August of 1990?

7 A. I did not attend that meeting.

360 Q. And if I could just proceed from that. Obviously Ms.

9 Dillon on behalf of the Tribunal has elicited the conflict

10 of testimony as between yourself and Mr. Gogarty in

11 relation to those matters.

12 .

13 If I could ask you, Mr. Murphy; you told the Tribunal on

14 several occasions in the course of your evidence that you

15 had no opinion at all in relation to the sale of the North

16 Dublin lands in 1989?

17 A. Correct.

1 361 Q. And I think you said you wouldn't have known what a good

19 price was, you had no difficulty with the sale of the

20 lands?

21 A. I hadn't.

2 362 Q. And can you explain then, why Mr. Ahern arising out of his

23 meetings with you on the 24th of June and the 1st of July,

24 1997, gave evidence that you had told him you were unhappy

25 with the lands being sold and you felt it wasn't a good

26 deal for the company, that's at page 9 on the transcript on

27 Day 50?

28 A. I did not tell him that.

2 363 Q. It comes up a second time, Mr. Murphy.

30 A. I did not tell him that. The subject of conversation was

31 the arbitration. I was not happy with the Bailey price

32 that they wanted for discount, it was purely the



1 arbitration. I did not give him a view on the sale of the  
2 lands.

364 Q. Can you have any, offer any explanation as to why Mr. Ahern  
4 might have got a matter like that wrong?

5 A. He has got a few issues wrong.

365 Q. This is not a matter on which Mr. Ahern could remotely be  
7 considered to have any axe to grind; isn't that so, Mr.  
8 Murphy?

9 A. Sorry?

1 366 Q. It is something on which he couldn't be considered to have  
11 an axe to grind, and it is something, I suggest to you, it  
12 is exceedingly unlikely he could have invented?

13 A. I am not saying he invented it, I am saying he is  
14 mistaken. The conversation was about, I wasn't happy with  
15 the Bailey side of the arbitration. I did not express a  
16 view that I was unhappy with the sale of the lands.

1 367 Q. And he reverted to that at page 40, where he said you  
18 thought the sale of the lands at 2500 was wrong, the  
19 inferential being that there was obviously more potential  
20 in the lands, that you tried to rescind the deal and didn't  
21 succeed?

22 A. No, that's not true, I had said that my lawyers had  
23 threatened to rescind or it was an idea that came from them  
24 to get the completion of the sale done. The completion,  
25 it must be remembered, the sale of the lands was completed  
26 before the arbitration.

2 368 Q. And --

28 .

29 MR. COONEY: The entire of what Mr. Murphy says on page 9  
30 I think bears that out, Mr. Chairman.

31 .

3 369 Q. MR. CALLANAN: And it is your evidence to the Tribunal,

1 Mr. Murphy, that the sale of the North Dublin lands had  
2 nothing to do with the Conroy affidavit, or your father's  
3 concerns in relation to tax affairs?

4 A. Correct.

370 Q. Is it fair to say that the Conroy affidavit and its  
6 contents must have been a source of considerable concern  
7 and anxiety to your father?

8 A. No.

371 Q. He wasn't troubled at all by the contents of the Conroy  
10 affidavit?

11 A. No, we were quite happy we could deal with them.

1 372 Q. This is notwithstanding the very elaborate arrangements  
13 that your father had made in relation to his own tax  
14 affairs, including his taking up residence in Guernsey, Mr.  
15 Murphy?

16 A. Sorry, could you - what's the question you are asking me  
17 there?

1 373 Q. I am saying, what you have just told me, Mr. Murphy, is  
19 that the Conroy affidavit had no, was not a matter of  
20 concern to your father. I am saying that seems odd in the  
21 light of what was contained in the affidavits of Mr. Conroy  
22 and the very elaborate arrangements which we know your  
23 father made in relation to his tax affairs?

24 A. I reject that.

2 374 Q. So your sworn testimony to the Tribunal is that the Conroy  
26 affidavit had, the content of the Conroy affidavits and the  
27 various proceedings had not the slightest influence on the  
28 decision to dispose of the North Dublin lands?

29 A. Yes.

3 375 Q. And just one matter which you might be able to clarify in  
31 passing, Mr. Murphy; you were a director both of the Irish  
32 companies and of AGSE; isn't that so?

1 A. I was a non-executive director, I had no involvement in the  
2 day-to-day running of those companies.

376 Q. Well, are you in a position to say why the entire share  
4 capital of AGSE was transferred to JMCC Holdings in June  
5 and July of 1989?

6 A. I can. It was on the advice of an accountant at the time,  
7 Mr. Wadley. I think that the idea behind that was that all  
8 the English based companies be owned by one holding company  
9 and all the Irish companies be owned by one, by another  
10 holding company.

1 377 Q. And are you suggesting that the timing of that had nothing  
12 to do with the contents of the Conroy affidavit?

13 A. Not at all.

1 378 Q. That was the advice - Mr. Wadley of course is an English  
15 accountant; isn't that so?

16 A. Correct.

1 379 Q. And I think you told the Tribunal that your father had told  
18 you, that Mr. Gogarty had told him that agricultural prices  
19 were high at the time in 1989?

20 A. Yes.

2 380 Q. When do you say your father told you that?

22 A. He told me that in the context of when he was telling me  
23 that Mr. Gogarty was hounding him or was at him to sell the  
24 lands in or around April or May of that year.

2 381 Q. I don't think it was ever suggested by your father that Mr.  
26 Gogarty had told him that agricultural prices were high in  
27 1989?

28 A. Maybe he didn't, maybe he didn't. But this is what my  
29 father told me, that Mr. Gogarty had been hounding him for  
30 quite some time and now was the right time to sell, and  
31 maybe they were the words that I used, and if they were the  
32 logical conclusion then is that agricultural prices were

1 high.

382 Q. And if we could turn to the meeting in the Swiss Cottage at  
3 the end of July, early August of 1990, Mr. Gogarty says you  
4 were at the meeting and you say you weren't at the meeting;  
5 isn't that so?

6 A. I was not at the meeting, no.

383 Q. However, you have indicated to the Tribunal that you may  
8 have or would have received an account of the meeting from  
9 Mr. Reynolds who was present. Now --

10 A. I have no firm recollection of the phone call immediately  
11 afterwards or the next day. I have told the Tribunal that  
12 I fully accept that Frank Reynolds would have told me the  
13 content of the information. Obviously since this Tribunal  
14 was set up, we have obviously more time to discuss it.

1 384 Q. You see, you have given very precise accounts, Mr. Murphy,  
16 of what you say was said at various meetings, but in  
17 relation to this, what you have told the Tribunal is that  
18 Mr. Reynolds would have given you an account of the  
19 meeting, that's page 112 on Day 110, and in relation to the  
20 question of buying a half share for 8 million pounds, you  
21 told the Tribunal at page 116, "He probably would have  
22 mentioned that Mr. Bailey brought it up and we would have  
23 laughed about it and dismissed it"?

24 A. The whole thing, the whole suggestion was a complete and  
25 utter joke, that we would sell something for 2.3 million  
26 and buy some of it, half of it, all of it back for 8, 10,  
27 16, whatever figure you want to put on it. It would have  
28 been just dismissed.

2 385 Q. Can I suggest to you that whether the price was a joke or  
30 not, the idea that you would buy back an interest wasn't a  
31 joke?

32 A. The whole idea was a complete and utter nonsense.

386 Q. So you are saying still, even though I think you accept  
2 that the meeting at the Swiss Cottage was a meeting of some  
3 importance, that you have no specific recollection of what  
4 was said at the meeting as reported to you by Mr. Reynolds,  
5 but you now say that you believe he would have told you  
6 about it?

7 A. No, don't be trying to twist my evidence, Mr. Callanan. I  
8 have outlined my evidence, that this meeting, obviously  
9 Frank Reynolds did attend it. He would have relayed the  
10 conversation to me. I have no recollection of the  
11 conversation being relayed to me but I fully accept that he  
12 would have, obviously since we have had time to discuss it  
13 since.

1 387 Q. Quite clearly if you weren't at the meeting Mr. Reynolds  
15 was effectively acting as your emissary, Mr. Murphy?

16 A. Mr. Gogarty brought Mr. Reynolds along to the meeting on  
17 the basis that maybe we might be able to come to a  
18 compromise on the damage to the property. It was Mr.  
19 Gogarty's suggestion that Mr. Reynolds go there.

2 388 Q. I think you have accepted that you had a very --

21 .

22 MR. COONEY: Excuse me interrupting, I don't think Mr.  
23 Callanan can put an alternative scenario to the witness,  
24 namely that Mr. Reynolds went there as his emissary,  
25 because Mr. Gogarty's evidence was clear and unequivocal,  
26 namely that Mr. Murphy himself was at the meeting. I don't  
27 think it lies in the mouth of Mr. Gogarty's counsel  
28 therefore to suggest an alternative scenario,  
29 Mr. Chairman. He can't do it. He can't say that on the  
30 one hand and on the other hand here. He must stick to the  
31 evidence that his client gave and whom he is still being  
32 allowed to represent here, 11 months after the Tribunal

1 started.

2 .

3 MR. CALLANAN: Could I say that seems to me to be a

4 clearly incorrect assumption. The witness has given, I

5 agree, a dramatically conflicting account to Mr.

6 Gogarty's. One of the standard recourses of counsel in

7 dealing with that is to proceed on the basis that if the

8 version that is being presented is true then certain

9 logical absurdities or anomalies follow from that. That

10 in my respectful submission, Sir, was all I was endeavoring

11 to do.

12 .

13 MR. COONEY: I don't think so with respect, Mr. Chairman.

14 .

15 CHAIRMAN: Surely, Mr. Cooney, it is a matter of comment

16 more than a matter of substance? It is a matter for you

17 and very valid, I beg your pardon, very validly to comment

18 to me, that this is something I should not take into

19 account, in the conflict.

20 .

21 MR. COONEY: Yes, this is; I mean with respect,

22 Mr. Chairman, in a final submission to you.

23 .

24 CHAIRMAN: In a submission or, well presumably at the

25 close of proceedings, I put it that way. I see no reason

26 why you can't do it at this point and flag it. But I

27 don't think that --

28 .

29 MR. COONEY: It seems --

30 .

31 CHAIRMAN: I see your point all right, but surely Mr.

32 Callanan is entitled to take the, take the case as he finds

1 it and say "Well, isn't this a comment I can make on that  
2 situation?"?

3 .

4 MR. COONEY: But he is not with respect, Mr. Chairman. He  
5 is neither taking his own client's case nor is he taking my  
6 client's case, he is trying to steer a middle course, he is  
7 saying "well look, if Mr. Gogarty isn't there as Mr. Murphy  
8 says, even though Mr. Gogarty says he was there, I will  
9 take a middle course and say well if Mr. Murphy wasn't  
10 there perhaps Mr. Reynolds was there as his emissary",  
11 logically I should say, Mr. Chairman, he can not do that in  
12 view of his client's sworn evidence, that Mr. Murphy was at  
13 the meeting. He can test, I agree, My Lord, the conflict  
14 between the two parties and establish by so testing to  
15 satisfy you as to which one is correct, but he can not  
16 logically engage in such a test by suggesting that another  
17 course of action was followed.

18 .

19 CHAIRPERSON: Well, I note your submissions and I note the  
20 validity of them in the context of the evidence, but I am  
21 going to permit, within reason, within reason, I hope it is  
22 not going to develop further, he has now made the point and  
23 it is already made and on the record, in the sense that it  
24 is in the transcript, it doesn't mean that I am going to  
25 accept the version, his version or, I will make my own mind  
26 up about it.

27 .

28 MR. COONEY: I understand.

29 .

3 389 Q. MR. CALLANAN: I think you said in evidence, Mr. Murphy,  
31 you thought the purposes of the meeting was to see if the  
32 differences about Poppintree House could be resolved

1 amicably?

2 A. Correct.

390 Q. And you gave evidence that you had a considerable  
4 involvement in dealing with the arbitration?

5 A. With the arbitration, yes.

391 Q. And this is in the run up to the arbitration; isn't that  
7 so?

8 A. This is shortly after the fire or the damage to the house,  
9 yes.

1 392 Q. And that's something in which you interested yourself, and  
11 I want to put it to you that you must have been aware in  
12 advance of the Poppintree meeting, and that it was going to  
13 be taking place --  
14 .

15 CHAIRMAN: In advance of the Swiss Cottage meeting.

1 393 Q. MR. CALLANAN: Sorry, the Swiss Cottage meeting, yes?

17 A. No, no. I may well have been, Mr. Callanan, Mr. Reynolds  
18 may well have phoned me and said "I am going along to meet  
19 Michael Bailey, see if this can be resolved", he may well  
20 have, I am not sure.

2 394 Q. But this was something in which you had taken a very direct  
22 personal interest. You had gone so far as to bring in  
23 your own solicitor and counsel, to deal with the issue  
24 arising from the fire at Poppintree, and I suggest to you  
25 it is inconceivable that at the very least you were not  
26 aware in advance that this meeting was taking place?

27 A. I accept I may well have been aware, yes.

2 395 Q. And the fact that there was a discussion about a buy-back  
29 of half interest by the Murphy Group shows, does it not,  
30 that the meeting ranged beyond the immediate issue of the  
31 resolution of the arbitration dispute as to the value of  
32 the Poppintree House or as to whether it should be



1 reinstated?

2 A. Obviously it did, yeah, went from the serious to the  
3 ridiculous.

396 Q. And you see one of the difficulties, Mr. Murphy, in  
5 relation to this, is that you said in your statement, not  
6 merely that you didn't attend the meeting, but you also  
7 said at paragraph 29, "I was not aware of any such meeting  
8 taking place"?

9 A. Yes. When I made that statement, as I said, I have had  
10 discussions with Mr. Reynolds afterwards. I have no  
11 recollection of either Mr. Reynolds informing me that he  
12 was going to the meeting or after the meeting, but I fully  
13 accept that I may have. I have no recollection of it, but  
14 I fully accept that I may have been informed. I have had,  
15 obviously had time to discuss this with Mr. Reynolds since.

1 397 Q. But what you told the Tribunal was you were simply not  
17 aware of any such meeting taking place?

18 A. That's correct, when I made that, you are reading out of  
19 the statement now in 1997, I had no recollection of such a  
20 meeting taking place. I may well have, but I can't  
21 remember it.

2 398 Q. Your statement was January of 1999, Mr. Murphy?

23 A. Which one is that?

2 399 Q. The statement that you made --  
25 .

26 MR. COONEY: December '98.

27 .

2 400 Q. MR. CALLANAN: Your first statement is the 16th of  
29 December of 1998, Mr. Murphy?

30 A. 1998, sorry, yes.

3 401 Q. And are you suggesting to the Tribunal, Mr. Murphy, that  
32 other matters in your statement are the product of

1 conversations you have, you have had with Mr. Reynolds in  
2 the intervening period?

3 A. Sorry, could you ask me that question again?

402 Q. Are there any other things in your statement that are the  
5 product of your conversations with Mr. Reynolds in the  
6 intervening period rather than your own recollection?

7 A. Not that I can recall now, no.

403 Q. And you are aware of Mr. Bailey's evidence, that the idea  
9 of the purchase of a half interest emanated from the Murphy  
10 side, although he didn't say from who?

11 A. That's rubbish. Rubbish. We wouldn't, I gave evidence,  
12 I - we wouldn't be long in business if we were selling for  
13 2.3 and buying it back for whatever figure you want to put  
14 on it. Absolute rubbish, that didn't emanate from us and  
15 I am sure when Mr. Reynolds gives evidence he can deal with  
16 this, he was at the meeting, I wasn't.

1 404 Q. I want to suggest you were a constant and consistent  
18 partisan of being involved in a joint venture with the  
19 Baileys in relation to these lands and you were most  
20 unhappy at the sale of the lands?

21 A. Never, never. I never met Michael Bailey, as I have given  
22 evidence, until the arbitration in October of 1992 and he  
23 has given the same evidence.

2 405 Q. And that it is for that reason and consistent with your  
25 previous conduct, that following the fire at Poppintree you  
26 brought in your own solicitor, you retained independent  
27 counsel out of your desire to break the contract?

28 A. No. Completely untrue.

2 406 Q. Well, you did, of course, bring in your own solicitors, and  
30 you did obtain independent counsel's advice in relation to  
31 your idea of breaking the contract; isn't that so?

32 A. Break the contract to issue a new contract to see if we

1 could get out of this ridiculous discount figure of  
2 £600,000. Break that one issue, a new one, that was my  
3 own thoughts on it, I think it is there in the  
4 documentation. After legal advice they said that couldn't  
5 be done, we would have to complete the sale and deal with  
6 the arbitration afterwards.

407 Q. Isn't the whole point, isn't it perfectly obvious, Mr.  
8 Murphy, that if you were in a position to treat the  
9 contract as rescinded or as a nullity you wouldn't be under  
10 any obligation to resell the lands at 2.3 million?  
11 A. No, I reject that completely. The idea at the time as I  
12 say, I came up with, that if we could break this contract  
13 and issue a new one then we could get out of this  
14 ridiculous 600 figure.

1 408 Q. Do you accept as a logical proposition, that if you were in  
16 a position to break the contract, that the title in the  
17 lands would revert to the Murphys and the Murphys would be  
18 free to deal with the lands as they saw fit?

19 A. No, I - that was not what I had in mind at the time. My  
20 whole idea, as I have said, twice already, is to break the  
21 contract, issue a new one, and we could get out of the  
22 £600,000 discount. It was not to regain back, take back  
23 the lands.

2 409 Q. Well, if you were successful in breaking the contract there  
25 would have been nothing to prevent you refusing to sell the  
26 lands again to the Baileys; isn't that so, isn't that just  
27 logic?

28 A. No, that may be your logic, Mr. Callanan, I know what was  
29 in my head at the time was to break this contract, issue a  
30 new one and we get out of this ridiculous discount  
31 figure. That may be your logic, it is not mine.

3 410 Q. Well, we will pass from that to the meeting in the Berkley

1 Court. In the first instance I want to put to you that  
2 there was one meeting rather than two meetings with Mr.  
3 Gogarty in the Berkley Court?

4 A. There was two meetings, and my solicitor at the time, I  
5 informed my solicitor at the end of the second meeting, Mr.  
6 Strahan, that Mr. Gogarty wanted more money, and I am now  
7 informed that he has a note of this on file.

411 Q. And that's not a document you have furnished to the  
9 Tribunal at any earlier stage, is it, Mr. Murphy?

10 A. It is not a document I was aware of until last Thursday or  
11 Friday.

1 412 Q. You would have presumably in relation to any relevant  
13 documents ascertained what was in the possession of your  
14 solicitors and claimed privilege in relation to that in the  
15 ordinary way, Mr. Murphy?

16 A. That would - no, Mr. Callanan, this was dealt with outside  
17 of me, it was dealt with by my legal team and one of my  
18 legal team mentioned this to me on Thursday or Friday, I  
19 still haven't seen the document.

2 413 Q. And would you like to explain what the purpose of having,  
21 what the purpose of a second meeting would have been or was  
22 in your case?

23 A. The purpose of the second meeting was our respective  
24 accountants, Mr. Howley, Seamus Howley on Mr. Gogarty's  
25 side, Mr. John Maher on our side, were going to meet  
26 because we were getting into the technicalities of  
27 accountancy tax matters. It was agreed with myself and  
28 Mr. Gogarty at the first meeting that they would meet and  
29 see if the issue could be resolved, we would meet a week  
30 later to the day to see if they could resolve those issues.

3 414 Q. Wasn't the point, Mr. Murphy, that if that was so it would  
32 be either resolved between accountants or not resolved

1 between accountants for the purposes of - the second

2 meeting seems redundant in the situation?

3 A. Absolutely incorrect, Mr. Gogarty made it quite clear in

4 the second meeting that it wasn't a P60 issue, it wasn't a

5 tax issue, he made it quite clear that he wanted another

6 sum for £400,000.

415 Q. I will come on to that in a moment. Did you suggest the

8 involvement of a tax consultant called Mr. Gerrard Brown?

9 A. No.

1 416 Q. You are quite sure about that?

11 A. I may have told him that we had got tax advice on it from

12 somebody, I think Mr. Brown, I may have mentioned his name.

1 417 Q. And I want to suggest to you that the meeting which took

14 place, you say the meeting was initiated by yourself?

15 A. No. The first meeting was after a meeting between Mr.

16 Frank Reynolds and Mr. Gogarty, when he was expressed a

17 desire to meet me. At the end of the first meeting both

18 myself and Mr. Gogarty agreed to meet a week later after

19 our respective accountants had spoken.

2 418 Q. What was the point of the meeting when there were

21 proceedings already in being, constituted on the 1st of May

22 of 1991, and solicitors on record on behalf of both of you?

23 A. Well, Mr. Gogarty indicated to Mr. Reynolds a desire to see

24 me, obviously if the matters could be resolved with a

25 meeting obviously that was the best course of events rather

26 than go to litigation, I was willing to give it chance.

2 419 Q. Just so we are quite clear about this, you are saying the

28 second meeting took place automatically?

29 A. The second meeting.

3 420 Q. By prearrangement made at the first meeting, that's what

31 you are telling the Tribunal?

32 A. The first meeting was on the 10th of February of '92, the

00110

1 second meeting was on the 17th of February of '92.

421 Q. And you were quite certain that you didn't make contact  
3 with Mr. Gogarty for the purpose of arranging either of  
4 those meeting with him, Mr. Murphy?

5 A. I am.

422 Q. And in your, in your account of what you say was the first  
7 meeting, you say that Mr. Gogarty wanted the 300,000 under  
8 his severance agreement paid tax free, either into family  
9 accounts or into an offshore account of his own?

10 A. No, this money had already been paid, Mr. Callanan. He  
11 said that this was a way it could have been done at the  
12 time.

1 423 Q. You said in your evidence at page 72 of Day 110, that Mr.  
14 Gogarty was very annoyed that he had to pay tax on that  
15 £300,000?

16 A. He was.

1 424 Q. Can you remember in any more detail what he said to you  
18 about that?

19 A. As I have already given in evidence, he said this portion  
20 of it could have been paid abroad to him into an offshore  
21 account or into accounts of other members of his family.  
22 That was one of his grievances. Another grievance was the  
23 insurance on the car, that he wouldn't, that it wouldn't  
24 cost JMSE any more money if his car was insured, whereas it  
25 was costing him money. He had a few grievances like that.

2 425 Q. Can you offer any explanation as to why that was never put  
27 to Mr. Gogarty, that he had raised a big issue with you at  
28 this meeting in the Berkley Court that the £300,000 hadn't  
29 been paid tax free?

30 A. I came to the conclusion that the less you put to Mr.  
31 Gogarty the better because the less abuse you get.

3 426 Q. You see the problem with your evidence to the Tribunal is

00111

1 not merely that the monies were already paid, but that the

2 payment was in fact tax free, Mr. Murphy?

3 A. The £300,000?

427 Q. Yes.

5 A. Well maybe the 215, I may have been mistaken, maybe it was

6 the ESB money which would have been taxed. He mentioned a

7 figure I think of 98, so maybe it would have been the

8 Moneypoint money.

428 Q. I want to suggest to you that the entire allegation is a

10 fabrication, as is your allegation of a demand for £400,000

11 at what you say was the second meeting?

12 A. Completely and utter rubbish. He demanded £400,000 from

13 me. He said he would personally take it out on me, he

14 would destroy me, he would destroy my family and he would

15 destroy our companies. He said he would go to the police,

16 the Revenue and the newspapers.

1 429 Q. If I could turn now, Mr. Murphy, to Forest Road, the sale

18 of the Forest Road lands. Mr. Gogarty says you were

19 present at a meeting with Mr. George Redmond at which the

20 text of what became the letter to the Council County

21 Council of the 10th of May of 1988 was produced, and you

22 absolutely deny that; isn't that so?

23 A. I do.

2 430 Q. And you have also told the Tribunal that you had no

25 knowledge at all of the sale of the Forest Road lands?

26 A. Correct.

2 431 Q. And we know that the contract in relation to Forest Road

28 were signed on the 24th of August of 1988, the sale closed

29 on the 24th of February of 1989, all after a period where

30 you had become a director of the Murphy companies?

31 A. Non-executive director. I had no role, day-to-day role in

32 the running of the companies.

432 Q. And you are saying you had no knowledge of any kind that,  
2 are you saying you had no knowledge that the Forest Road  
3 lands were being sold?

4 A. Not until later.

433 Q. You didn't know that a significant portion of lands were  
6 being sold at all?

7 A. They were being dealt with by Mr. Gogarty at the time.

434 Q. And I think you went further in fact in your testimony, Mr.  
9 Murphy, and you said that when it came to the arbitration,  
10 that's the 19th of October of 1992, I think what you said  
11 was, "I think Mr. McArdle or Mr. Reynolds informed me that  
12 there were previous lands sold to the same purchaser"?

13 A. You are now twisting my evidence again, Mr. Callanan. I  
14 said "during the arbitration". So it may well have been  
15 sometime between 1990 and 1992. Certainly was before the  
16 actual arbitration proceedings took place, that I would  
17 have been informed that previous lands were sold to the  
18 same person, but this could have been any time between 1990  
19 and 1992. Probably in 1990.

2 435 Q. Well, you accuse me of twisting your words. What you said  
21 at Day 111, page 102 was actually, "I think when it came to  
22 the arbitration, I think Mr. McArdle or Mr. Reynolds  
23 informed me that there were previous lands sold to the same  
24 purchaser". I think it is not unreasonable to have  
25 concluded that that was a reference to the arbitration  
26 itself on the 19th of October of 1992 which coincidentally  
27 is also the occasion on which you say you met Mr. Bailey?

28 A. That is the first occasion I met Mr. Bailey. It was  
29 during, some time when these arbitration proceedings began,  
30 I would have been informed about previous sales to the  
31 similar purchaser.

3 436 Q. Can you say roughly when this was?



1 A. I can't, no.

437 Q. And if we can come to the Burlington Hotel meeting arranged  
3 by Mr. Bailey, which you put at October or early November  
4 of 1996, and Mr. Bailey dates as July or August of 1996.  
5 In your evidence to Ms. Dillon at page 45 on Day 111 you  
6 said that you were aware of the substance of the matters  
7 that Mr. Connolly had discussed with Mr. Reynolds, so far  
8 as related to JMSE. But not so far as it related to the  
9 Baileys. That was your evidence, which I can show you if  
10 you like, pages 45 and 48 of Day 111?

11 .

12 MR. COONEY: What transcript is being referred to,  
13 Mr. Chairman? It might be more complete if a copy of the  
14 transcript was given to the witness.

15 .

1 438 Q. MR. CALLANAN: Yes, I will try to - it is Day 111, pages  
17 45 and 48. (Document handed to witness).

18 .

19 Do you see there page 45, Mr. Murphy, question 168? "At  
20 the time that you went to that meeting were you aware of  
21 the substance of the matters that Mr. Connolly had  
22 discussed with Mr. Reynolds?" And you say "Why you were",  
23 and you qualify that answer at page 48 at question 189  
24 where Ms. Dillon asks you, "Did Mr. Reynolds mention to you  
25 that the name of Mr. Michael Bailey had been mentioned in  
26 connection with the payment to Mr. Burke?" And your answer  
27 is, "No I don't think so. I think that Mr. Connolly from  
28 the conversation with Mr. Reynolds just relayed to me the  
29 allegations he made about JMSE".

30 .

31 And you referred in your evidence to being made aware by  
32 Mr. Connolly that the Baileys were alleged to be involved

1 when Mr. Connolly spoke to you in December of 1996?

2 A. Correct, he put the joint venture thing with the Baileys to  
3 me.

439 Q. And is that the first occasion on which you became aware  
5 that it was being alleged that the Baileys were a party to  
6 the payment to Mr. Burke or involved in the payment to Mr.  
7 Burke?

8 A. I think it was the first time their name had been outright  
9 mentioned.

1 440 Q. So you are saying that you had, how do you mean "outright  
11 mentioned"? Simply a conversation, it wasn't a newspaper  
12 publication on this occasion, it was simply Mr. Connolly  
13 speaking to you on the telephone as I understand it?

14 A. Correct. When I told Mr. Connolly on the phone, when he  
15 put to me the allegation of the bribe to Mr. Burke to  
16 develop, to get planning permission, I told him it was  
17 ridiculous to suggest that we would pay money to bribe  
18 somebody on lands that we were selling. He put the joint  
19 venture to me with the Baileys.

2 441 Q. Yes. And was that the first occasion on which you were  
21 aware or made aware that it was being suggested that the  
22 Baileys or Bovale had an involvement in the payment to Mr.  
23 Burke?

24 A. It may not have been, we may have read between the lines in  
25 the newspapers before that, I can't be sure on that.

2 442 Q. Well, that's something of very considerable importance, Mr.  
27 Murphy. I have to ask you if you can do better than  
28 that. At what stage, if we do it this way, at what stage  
29 did it occur to you that the Baileys might have been a  
30 party, the possibility, at what stage did that occur to  
31 you?

32 A. The possibility would have been with probably some of the

1 articles earlier, yes.

443 Q. And you are saying at no stage prior to that?

3 A. Prior to what?

444 Q. Prior to the articles?

5 A. Being written in the newspapers?

445 Q. Yes.

7 A. Absolutely not. I had no knowledge of the meeting in Mr.

8 Burke's house until they started appearing in the

9 newspapers.

1 446 Q. You see from your evidence, I may be wrong, I had the  
11 impression that when Mr. Connolly spoke to you in December  
12 of 1996 that the suggestion that the Baileys were involved  
13 came to you as something of a surprise, that would be  
14 wrong, would it?

15 A. That would be wrong. The suggestion of a joint venture  
16 with the Baileys came as a surprise.

1 447 Q. But not an involvement on the part of the Baileys?

18 A. No, maybe not. As I say, probably read through the lines  
19 in the previous articles.

2 448 Q. And that would be presumably somebody that you discussed  
21 with in JMSE, if this seemed a possibility?

22 A. Sorry, what is the question?

2 449 Q. The question is, did you discuss with anybody else in JMSE  
24 the possibility that the Baileys had been the other party  
25 involved in the payment to Mr. Burke?

26 A. Yes, I mean I have discussed this, probably I think the  
27 only person within JMSE that I was discussing it at the  
28 time was Frank Reynolds. Obviously I had asked my father  
29 who was not actively involved, but the only person within  
30 JMSE at the time would have been Mr. Frank Reynolds, and we  
31 would have dismissed that because at that time we were not  
32 aware that, of even a proposal for a joint venture.

450 Q. So when you met Mr. Bailey in the Burlington, I think you  
2 are saying late October, early November of 1996, what was  
3 your attitude to the, or your view of the issue as to  
4 whether or not Mr. Bailey had an involvement in the  
5 payments to Mr. Burke?

6 A. As I say, I was at that stage when I met Mr. Bailey, it was  
7 only the second occasion that I met him. I would have  
8 been guarded, I think that he was guarded. The purpose of  
9 the exercise, as I have given evidence, Mr. Bailey has said  
10 that if, that he was satisfied that Mr. Gogarty, I think he  
11 wanted to meet my father more than me and could resolve our  
12 difference with a shake hands, the purpose of that meeting  
13 was not to discuss Mr. Burke or anything else. As I say,  
14 at that time it had died down.

1 451 Q. And you are saying you didn't, you nevertheless didn't  
16 raise the issue at all with Mr. Bailey in the meeting in  
17 the Burlington?

18 A. No.

1 452 Q. Why was that?

20 A. It wasn't raised. As I say the two of us, I didn't know  
21 Mr. Bailey, only met him briefly on one other occasion. I  
22 was pretty guarded, he was pretty guarded. He had his  
23 wife there with him, the subject didn't come up.

2 453 Q. You see, if your evidence is correct that would have been a  
25 matter of burning curiosity from your point of view, Mr.  
26 Murphy?

27 A. No.

2 454 Q. Can I refer you to an article of Mr. Connolly of the 31st  
29 of March of 1996. (Document handed to witness). I think  
30 just if you could just go down the first column, it's the  
31 Sunday Business Post, the 31st of March of 1996. If you go  
32 down the first column. At the bottom of the first column,

00117

1 Mr. Murphy, you will see "Another individual", which we  
2 know to be Mr. Gogarty, "has claimed to the Newry  
3 solicitors, Donnelly Neary Donnelly, that in 1989 he  
4 personally gave the politician who was also a local  
5 councillor cash and cheques worth £40,000 on one occasion  
6 was present when a property developer handed over an  
7 equivalent amount. The money was in return for promised  
8 rezoning of almost a thousand acres of land and was to  
9 cover payments for a number of named councillors who would  
10 support specific rezoning motions" .

11 .

12 That's an article, which I take it, you would have read at  
13 the time, Mr. Murphy?

14 A. Correct.

1 455 Q. And is it fair to say that you would have concluded from  
16 that that the person involved, the person referred to as  
17 "the property developer" was Mr. Bailey?

18 A. Yes, I accept that it may well have, yes.

1 456 Q. And we know from what I think was a fairly comprehensive  
20 scrutiny of the newspapers, that this is the story that  
21 really, the article that broke the story?

22 A. Yes.

2 457 Q. So that you are saying to the Tribunal that the first  
24 occasion on which you became aware that there was any  
25 suggestion of an involvement on the part of the Baileys was  
26 in the Sunday Business Post article of the 31st of March of  
27 1996?

28 A. Correct, that is, this is the first time I was aware there  
29 may have been a meeting, yes.

3 458 Q. And you had no knowledge of that fact either from any  
31 involvement you had in a payment to Mr. Burke or in any  
32 inquiries or conversations that had taken place within JMSE

1 in the intervening period?

2 A. Correct, I had no involvement whatsoever in the payment to  
3 Mr. Burke.

459 Q. And that obviously was a very significant thing in relation  
5 to the allegations that the partner in crime to JMSE, so to  
6 speak, was Mr. Bailey. You could translate that? You  
7 could conclude that the property developer must logically  
8 be Mr. Bailey. Did you --

9 A. May well have done at the time, yes. But, you know, we  
10 have to read down through the rest of it, the phone calls,  
11 threats, the damage to family car, all that sort of thing,  
12 I would have just said "well, you know, this is Gogarty  
13 again", you know.

1 460 Q. And when you read that did you go back to Mr. Reynolds and  
15 discuss with him any potential involvement on the part of  
16 Mr. Bailey?

17 A. We may well have discussed the article, yes.

1 461 Q. And can I, I think likewise if that by any chance had  
19 escaped your attention, the following article in the Sunday  
20 Business Post of the 7th of April, also refers to the  
21 involvement "of a developer", "along with three directors  
22 of the company, including the man who made the  
23 allegations". Now, that's something to which you have  
24 taken very considerable exception in your evidence, so I  
25 think we can take it had you by any chance missed the  
26 article of the 31st of March of 1996 you would have been  
27 aware of the article of the 7th of April of 1996 and could  
28 not have failed to miss the reference to the "property  
29 developer" in that article, coupled with the same sentence  
30 "with the three directors of the company"; isn't that so?

31 A. That's correct.

3 462 Q. And can I suggest to you, Mr. Murphy, that the only reason

1 you would have gone near the Burlington was that you had a  
2 common interest with Mr. Bailey in rebutting Mr. Gogarty's  
3 allegations of a joint involvement in the making of a  
4 payment or payments to Mr. Burke, and that you knew Mr.  
5 Gogarty's allegations to be true?

6 A. That's complete and utter rubbish.

463 Q. And I want to suggest to you that likewise, when Mr.  
8 Connolly spoke to yourself and to Mr. Reynolds in the  
9 course of 1996, that both of your actions were those of  
10 people engaged in news management rather than people who  
11 believed genuinely that you were confronted by false  
12 allegations of a very serious kind?

13 A. No, I reject that.

14 .

15 MR. COONEY: With respect, Chairman, that's a meaningless  
16 question. He is referring apparently to two separate  
17 meetings at quite different intervals of time, that's the  
18 first thing.

19 .

20 The second thing, he talks about news management, what does  
21 that mean, Mr. Chairman?

22 .

23 CHAIRMAN: Perhaps counsel would clear that aspect up?

24 .

2 464 Q. MR. CALLANAN: Yes I will. The meetings are linked  
26 insofar as they both took place in 1996, there was a March  
27 1996 meeting with Mr. Connolly and there was a December  
28 1996, sorry Mr. Reynolds, there was a December 1996 meeting  
29 with Mr. Murphy.

30 .

31 What I want to put to you is this, Mr. Murphy; that your  
32 actions throughout 1996 when this issue arose, beginning

1 with Mr. Connolly speaking to Mr. Reynolds, were those of  
2 somebody who was desperately anxious to put a false spin on  
3 these allegations, rather than somebody who was genuinely  
4 carrying out an inquiry into the allegations?

5 A. No, I reject --

6 .

7 MR. COONEY: With respect, that's an argument that's not

8 --

9 .

10 CHAIRMAN: I agree.

11 .

1 465 Q. MR. CALLANAN: I am passing on to my next point,

13 Mr. Chairman, it needn't detain us.

14 .

15 And one indication of that is that if the allegations which  
16 were first canvassed in March of 1996 by Mr. Connolly to  
17 Mr. Reynolds were to your knowledge, false, that one would  
18 expect the most meticulous notes by Mr. Reynolds of the  
19 meeting in March 1996 and by yourself of the conversation  
20 you had with Mr. Connolly in December of 1996?

21 .

22 MR. COONEY: Again, Mr. Chairman, I must object. Mr.

23 Callanan is asking this witness, not a question, he is

24 putting an argument to him, and he includes in that

25 argument matters about which this witness could not have

26 known. It is really argument, Mr. Chairman.

27 .

28 CHAIRMAN: I think you are correct.

29 .

3 466 Q. MR. CALLANAN: Perhaps can I just confine myself to the

31 December 1996 meeting.

32 .



1 Can you say firstly - you are not aware, I take it, can we  
2 take it that Mr. Reynolds didn't keep a note of his  
3 conversation with Mr. Connolly in March of 1996?

4 A. I am not aware that he did, no.

467 Q. And you didn't keep a note of your conversation with Mr.

6 Connolly in December of 1996?

7 A. No.

468 Q. And can you say why that is so? Why didn't you take a  
9 note?

10 A. Just didn't. Mr. Connolly had rung on the basis of some  
11 sort of allegation that Mr. Gogarty was making at the time,  
12 that the threats were issued to him if he didn't turn up at  
13 the meeting, it is not something that I made a note of.

1 469 Q. And your evidence likewise, in relation to the conversation

15 that Mr. Connolly had with you in December of 1996, that

16 your legal advice was that there was nobody named and

17 nothing could be done, I think that's what you told the

18 Tribunal at page 91 of Day 111, Mr. Murphy?

19 A. As regards?

2 470 Q. Nothing could be done in relation to the allegations which

21 were being made?

22 A. In the newspapers?

2 471 Q. I will put to you what you said Mr. - I will find the

24 specific reference. I think you have actually Day 111

25 before you, and you said at page 380 --

26 A. I don't have that.

2 472 Q. Sorry, I will get you the -- (Document handed to witness).

28 .

29 MS. DILLON: Is it question 380?

30 .

3 473 Q. MR. CALLANAN: Question 380 on page 91 of Day 111, it is

32 the answer rather than the question?

1 A. What page?

474 Q. Page 91, Mr. Murphy. Do you see, Mr. Murphy, "Let's put  
3 this into context, Ms. Dillon. I think Frank Connolly's  
4 article was on or around the end of March and beginning of  
5 April. I did seek legal advice at the time and I think my  
6 solicitors sought counsel's advice at the time and the  
7 advice was there was nobody named, nothing could be done"?

8 A. Yeah.

475 Q. And --

10 .

11 MR. COONEY: He goes on to say, "The thing died down as  
12 far as I was concerned".

1 476 Q. MR. CALLANAN: Sorry, "The thing died down as far as I was  
14 concerned"?

15 A. I am on the wrong page.

1 477 Q. Now, what I want to say to you in relation to that is that  
17 you knew at this stage that these allegations were  
18 emanating from Mr. Gogarty; isn't that so?

19 A. Correct.

2 478 Q. You also, according to your account of the meetings in the  
21 Berkley Court, maintained that Mr. Gogarty was effectively  
22 seeking to extort monies from you?

23 A. Correct.

2 479 Q. And I am saying that, I am putting to you, Mr. Murphy, that  
25 if you believed that what Mr. Gogarty was saying was  
26 untrue, that you would have immediately instituted  
27 proceedings against him, but that you simply hoped at that  
28 stage that the story would go away?

29 A. No, I reject that. The story had died down, there was a  
30 couple of articles there in March and April that you  
31 pointed out to me and the story had died down.

3 480 Q. Now, Mr. - I think it was referred to in the last couple of

1 days, Mr. Connolly, in an article in the Sunday Business  
2 Post of the 11th of May of 1997, I think this was referred  
3 to at page 93 of Day 111, in that article he said, "that  
4 contrary to media reports last week the man making the  
5 allegation, Mr. Gogarty, is not seeking to extract money  
6 from his former employer"?

7 A. What page is this?

481 Q. At page 93 I believe.

9 A. Of the?

1 482 Q. Yeah, of 111, yes. It is the fifth paragraph down, it is a  
11 quotation from Mr. Connolly's article?

12 A. Okay, yeah.

1 483 Q. "Is not seeking to extract money from his former employer",  
14 and I think you may be aware of this, Mr. Murphy, but I  
15 think the Sunday Independent and the Irish Times in the  
16 previous week had carried reports, that's in fact referred  
17 to on the following page. "His legal representatives have  
18 said he was perplexed by news reports in the Sunday...  
19 Police investigation to extract monies from his former  
20 employers". (Quoted).

21 .

22 Now, can I ask you, were you or JMSE the source of those  
23 reports, Mr. Murphy?

24 A. No, not to my knowledge, no.

2 484 Q. The Murphy interest retained a PR person, Mr. James  
26 Morrissey, to whom Mr. Connolly was initially referred when  
27 he first approached JMSE; isn't that so?

28 A. That's correct, yes. At the beginning I think, yeah.

2 485 Q. And for how long had Mr. Morrissey been employed by JMSE?

30 A. I think for a few months at that time. He was only at the  
31 early stages, and he wasn't re-employed again by us until  
32 the beginning of this year.

486 Q. So can you just tell us when he ceased to be employed by

2 you?

3 A. I cannot give you the precise time, but it would have been

4 sometime in 1996, maybe in the latter part, I didn't deal

5 with him at the early stages, I only met Mr. Morrissey for

6 the first time this year, at the beginning of the year.

487 Q. Well, who had taken Mr. Morrissey on in the first place?

8 A. I think that Mr. Reynolds was dealing with him at the

9 time. I think that he was in for a few months, involved

10 for a few months on the early part of 1996, early to middle

11 part, I would have to double check that, Mr. Callanan. I

12 can't be fully precise on that.

1 488 Q. Obviously an allegation of the kind which Mr. Connolly was

14 canvassing when he spoke to Mr. Reynolds in March of 1996

15 would be a matter of considerable moment from the point of

16 view of a PR man for any business or enterprise; isn't that

17 so?

18 A. What's the question?

1 489 Q. That the allegations of the kind which Mr. Connolly was

20 canvassing in his conversation with Mr. Reynolds in March

21 of 1996 would be a matter of very considerable moment from

22 the point of view of a PR consultant, acting on behalf of a

23 business or enterprise?

24 A. From his point of view, Mr. Morrissey's point of view?

2 490 Q. In carrying out his duties as JMSE public relations

26 spokesman or public relations consultant, Mr. Murphy?

27 A. I am sure it would, yeah.

2 491 Q. So, in relation to these allegations dating from March of

29 1996, what was Mr. Morrissey's brief?

30 A. I think Mr. Reynolds briefed him, I think we may well have

31 mentioned the earlier articles and said there was no truth

32 in it. I can't remember speaking to him direct, I

1 certainly didn't meet him until the beginning of this year,  
2 so Mr. Morrissey may have relayed that to Mr. Connolly, I  
3 may have relayed it to Mr. Connolly, but I have no  
4 knowledge on who actually told whatever paper, what's this  
5 in, the Business Post is it or the Independent? This  
6 "Contrary to media reports article"?

492 Q. Yes, the Sunday Business Post.

8 A. I may well have told Mr. Connolly in 1996 myself that Mr.  
9 Gogarty was trying to extract money from us, I may well  
10 have relayed the conversations I had in the Berkley Court.

1 493 Q. It wasn't, Mr. Connolly wasn't repeating those, wasn't  
12 reiterating those allegations, he was quoting those  
13 allegations as appearing in the Irish Times?

14 A. I don't know who told that to the Irish Times, I certainly  
15 never spoke myself directly to the Irish Times, I can't  
16 help you there.

1 494 Q. Well, can I suggest to you that firstly, it is something  
18 which could really only have come from JMSE, and secondly  
19 it is unlikely to have come from JMSE without your  
20 knowledge and authority, Mr. Murphy?

21 A. Certainly, we may have told somebody that this is what Mr.  
22 Gogarty was trying to do, yeah, I mean I accept that, but I  
23 think you have to ask the Irish Times reporter who gave him  
24 this information. I can't be fully one hundred percent  
25 sure who gave him this information.

26 .

27 CHAIRMAN: At this point, Mr. Callanan, I think we will  
28 take a ten minute break. Just a very short break.

29 .

30 MR. CALLANAN: Certainly Sir.

31 .

32 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED AS

1 FOLLOWS:

2 .

495 Q. MR. CALLANAN: I think you are aware, Mr. Murphy, that

4 there has been a considerable issue as to when the idea and

5 the term "Joint Venture" was introduced into the swirl of

6 allegations concerning the payments to Mr. Burke?

7 A. Not as far as I am concerned.

496 Q. Well, I think it originally arose arising out of Mr.

9 Ahern's minute of the first meeting, the Crest Forte Hotel

10 meeting of the 24th of June of 1997, and he says, referring

11 to you, "He categorically denied, as has been alleged, (he

12 raised this) that there had been a joint venture between

13 Murphys and Mr. B", Mr. Bailey?

14 A. It was in the context of a conversation about Mr. Frank

15 Connolly that this was brought up. I said that Mr.

16 Connolly had put it to me the previous December, that he

17 had raised the issue of a joint venture with the Baileys.

18 I did say this to Dermot Ahern, I said there was never any

19 discussion about a joint venture with them.

2 497 Q. Yes, and I think that was put by Mr. Cooney to Mr. Ahern.

21 There was a point taken, I think by Mr. O'Moore, as to the

22 use of the phrase "Joint Venture", and Mr. Cooney put it to

23 Mr. Ahern that that was a phrase that had been introduced

24 by Mr. Connolly in his conversation with you; isn't that

25 so?

26 A. That's so, yes.

2 498 Q. And I think you have referred to that elsewhere in your

28 evidence at Day 111, page 91. I think you have given the

29 evidence that you have just given now. And what I want to

30 put to you is this, Mr. Murphy, that that evidence shows

31 the statement at paragraph 23 of your statement to the

32 Tribunal to be a lie. I will read you the statement:

1 "The very first occasion upon which I became aware of Mr.  
2 Bailey's proposal that he would acquire a 50 percent  
3 interest in the Murphy Group lands was when I saw his  
4 letter of the 8th of June, 1989, addressed to Mr. Gogarty,  
5 published in the newspapers in or about the time of the  
6 establishment of this Tribunal"?

7 A. No, I reject --

499 Q. No?

9 A. No, no. That statement is correct. The term "Joint  
10 Venture" had been mentioned by Mr. Connolly, he was not  
11 specific. The very first time a 50/50 proposal had been  
12 put to me was when I read it in the newspapers, it is not a  
13 lie and I reject that totally.

1 500 Q. Well, we can leave that to the Sole Member. Now, you have  
15 repeatedly, Mr. Murphy, in your evidence, said that it  
16 would be ridiculous for JMSE to have made a payment in  
17 respect of lands which had been sold or which were being  
18 sold, that that was your reaction for most of the period  
19 since 1989 when this allegation was raised, it is something  
20 you said to Mr. Ahern, it is something you have said to the  
21 Tribunal as explaining your earlier reactions to the  
22 allegations; isn't that so?

23 A. Correct.

2 501 Q. I just want, just to remind you in that regard, is the  
25 chronology. We know that the evidence has been, Mr.  
26 Gogarty's evidence certainly, has been that the payment of,  
27 to Mr. Burke was at a date towards the middle of June of  
28 1989 before the General Election?

29 A. Mr. Gogarty has changed the date of that three times, from  
30 the 8th to a couple of days afterwards, maybe the 10th and  
31 changed it again in his evidence to the following week.  
32 He changed the date on three separate occasions.

502 Q. But I think it could still be accurately summarised as a  
2 date towards the middle of June before the General Election  
3 on the 15th of June of 1989; isn't that so?

4 A. Summarised some day between the 8th and the 15th is three  
5 different versions of events, yes.

503 Q. And the lands hadn't been sold at that stage; isn't that  
7 so?

8 A. That's correct.

504 Q. And the offer of the Baileys was only confirmed by Duffy  
10 Mangan Butler, by letter of the 27th of November of 1989,  
11 and the contract was signed for the sale of the lands on  
12 the 19th of December of 1989?

13 A. That's correct.

1 505 Q. So in the light of that chronology, the argument you were  
15 making falls down; isn't that so?

16 A. No, it does not fall down. I reject that totally. I  
17 think that lands that were being sold, I think the decision  
18 to sell the lands had been made earlier before June, and I  
19 reject your suggestion.

2 506 Q. That gap between June and November, I think is some four  
21 months isn't that, five months in fact?

22 A. I think there is documentation there that shows that the  
23 decision to sell the lands was made before the 8th of June,  
24 so when I say "lands that were being sold", that's what I  
25 am referring.

2 507 Q. Now, you were the Chairman of JMSE from 1990; isn't that  
27 so?

28 A. That's correct.

2 508 Q. And you took a personal interest in the arbitration arising  
30 out of the fire at Poppintree House; isn't that so?

31 A. That's correct.

3 509 Q. Would it be fair to say, Mr. Murphy, that you took the



1 leading role in marshaling the Murphy interests defence  
2 against the allegations of Mr. Gogarty in the period from  
3 1996 onwards?

4 A. Sorry, you will have to rephrase that, marshaling what?

510 Q. Obviously the Murphy Group retained lawyers and so on?

6 A. Correct.

511 Q. What I am asking you; in terms of the personnel of the

8 Murphy companies themselves, would it be fair to say you  
9 were the person that took the leading role in seeking to  
10 rebut the allegations of Mr. Gogarty?

11 A. Correct.

1 512 Q. And it would be you rather than Mr. Reynolds who

13 effectively took charge of that?

14 A. Well both of us, I think would have been in discussions

15 about it at the time, both of us.

1 513 Q. I think Mr. Grehan referred to you saying that you had, you

17 were taking charge of dealing with the Gogarty allegations?

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

1 514 Q. But you accept I think, that that was in practice the case,

20 that you were --

21 A. Myself and Frank Reynolds were dealing with our solicitors

22 at the time as events were happening very fast. Both of

23 us had numerous consultations with our solicitors, letters

24 were going to various newspapers and such like things.

25 Both of us were involved in this.

2 515 Q. And while you deny you were present when the payment was

27 made to Mr. Burke or that you were privy to that payment,

28 you are now intimately familiar with the documentation on

29 the company side, with the evidence of the JMSE

30 protagonists; isn't that so?

31 A. Correct.

3 516 Q. So, can you tell us how £30,000 of JMSE monies came to be

1 paid to Mr. Burke?

2 A. I can't. This payment was requisitioned, and I think that  
3 later evidence will show this, but we have it in  
4 statements, from Mr. O'Keeffe, that at Mr. Gogarty's behest  
5 that he went to the bank and picked up the money and handed  
6 it over to Mr. Gogarty. I cannot explain his actions or  
7 motives.

517 Q. And it appears also that Mr. Reynolds had an involvement;  
9 isn't that so?

10 A. Mr. Reynolds may well have driven Mr. O'Keeffe to the bank,  
11 as he did on many occasions. I don't know whether he has  
12 a recollection of this specific event.

1 518 Q. And when did Mr. Reynolds first mention that to you, Mr.  
14 Murphy?

15 A. Mr. Reynolds mention what?

1 519 Q. That he might have attended Mr. O'Keeffe when Mr. O'Keeffe  
17 went to collect the cash?

18 A. I think it is in his statement, that he may well have gone  
19 to the bank, but he has no recollection of it because he  
20 went to the bank with Mr. O'Keeffe on many occasions.

2 520 Q. Indeed it is in his statement, Mr. Murphy. What I am  
22 asking you is when did he first tell you that?

23 A. I can't be sure of that.

2 521 Q. Would you like to give it a try?

25 A. When Mr. Reynolds told me he may have gone to the bank?

2 522 Q. Yes.

27 A. I think that this may well have been maybe after Tim  
28 O'Keeffe's statement, in or around the time of Mr.  
29 O'Keeffe's statement.

3 523 Q. And what did he say to you about the possibility of any  
31 involvement on his part up to the making of Mr. O'Keeffe's  
32 statement?

1 A. He had no involvement whatsoever in this payment to Mr.

2 Burke.

524 Q. And he told you that?

4 A. Yes.

525 Q. When did you first inquire of him in relation to that?

6 A. I would have asked him going back to when the allegations

7 first appeared in the media.

526 Q. And did you have more than one conversation on that

9 subject? Did you go back to seek further reassurances

10 later or simply have a single conversation at the outset

11 when Mr. Connolly came calling in March of 1996?

12 A. Yeah, we would have had other discussions yes, when Mr.

13 Connolly - we certainly discussed that, when it appeared in

14 the newspapers, in the March/April, that you just put up on

15 the screen there, and I think that, as I said, it died down

16 and, until I was contacted by Mr. Connolly again in

17 December.

1 527 Q. And are you suggesting that in each of those conversations

19 Mr. Reynolds assured you that he hadn't been involvement?

20 A. Yes, Mr. Reynolds had no hand, act or part in the payment

21 to Mr. Burke and has no knowledge of it.

2 528 Q. So, were you then taken aback when you did see Mr.

23 Reynolds' statement, it must have come as a bold bolt from

24 the blue, that Mr. Reynolds was now saying that it was

25 quite possible that he had accompanied Mr. O'Keeffe to the

26 bank when the cash portion of the payment for Mr. Burke was

27 collected?

28 A. No.

2 529 Q. That didn't cause you any astonishment?

30 A. No, Mr. Reynolds I think has no knowledge of this specific

31 transaction, as he said. He travelled to the bank on many

32 occasions with Mr. O'Keeffe, but he has no specific

1 recollection of this or any amount of money, whether it be  
2 20 or 30, being discussed with Mr. O'Keeffe or anybody  
3 else.

530 Q. Well, presumably this was something you discussed with Mr.  
5 Reynolds when he was preparing his statement?

6 A. We would have had numerous consultations with our lawyers  
7 at the time, that both of us would have been present, yes.

531 Q. But did it not seem remarkable to you that it was only in  
9 the light of Mr. O'Keeffe's statement, that Mr. Reynolds  
10 managed to recall the possibility of an involvement --

11 A. No.

1 532 Q. -- in the collection of these monies?

13 A. No, absolutely not.

1 533 Q. But it was entirely at odds with what you say you had been  
15 told up to the time?

16 A. No, he said he had no knowledge of a payment to Mr. Burke,  
17 he had no knowledge of a political contribution --

18 .

19 MR. COONEY: I think in fairness, Mr. Callanan should put  
20 the entire of what Mr. Reynolds says in his statement, on  
21 this issue, particularly at paragraph 12, he says, "I have  
22 read the statement of Timmy O'Keeffe, in which he states  
23 that I may have accompanied him to the bank to collect an  
24 amount of money at the request of Mr. Gogarty. I have no  
25 recollection of accompanying Mr. O'Keeffe on that  
26 particular occasion, but I accept that I may have done  
27 so. Although I was at the time principally involved in  
28 the construction side of the Group's business rather than  
29 its financial aspects, I did on occasion go to the bank for  
30 various purposes, including the making of lodgements and  
31 collection of petty cash.

32 .

1 It was in fact a condition of the Group's insurance, that  
2 petty cash be collected from the bank by a minimum of two  
3 employees from the Group. If I did accompany Mr. O'Keeffe  
4 on that occasion I most certainly had no knowledge of doing  
5 that from the transaction".

6 .

7 If Mr. Callanan is going to quote from Mr. Reynolds'  
8 statement, he shouldn't do so selectively, particularly  
9 when it produces a misleading representation of what Mr.  
10 Reynolds said in his statement.

11 .

12 CHAIRMAN: Mr. Callanan, that's a reasonable proposition,  
13 that the entirety of Mr. Reynolds' statement, if he is  
14 putting a statement, if he is going to give evidence, one  
15 assumes in accordance that's what has to be canvassed to  
16 him, to any person whom you are using to challenge it, you  
17 must give him the whole, the context in which Mr. Reynolds  
18 makes it.

19 .

2 534 Q. MR. CALLANAN: Very good, Sir. I will endeavor to do  
21 that. The statement of Mr. Reynolds is in fact the same  
22 date as the statement of Mr. O'Keeffe; isn't that so? Both  
23 dated the 16th of December of 1998?

24 A. I accept that, yeah. That may be the case, maybe all the  
25 statements were in or around that time, were they?

2 535 Q. And the case is being made, as I understand it, by the  
27 Murphy interest, that this payment was made by Mr. Gogarty  
28 entirely on his own initiative without the consent or  
29 knowledge of any of the other senior executives of the  
30 company?

31 A. Correct.

3 536 Q. And can you say what conceivable benefit Mr. Gogarty could

1 have derived from making a payment of £30,000 of company  
2 monies to Mr. Burke?

3 A. I can't - what benefit Mr. Gogarty was getting, I mean it  
4 is pure speculation on my part. I just don't know. But  
5 one thing I can be sure of is there was no benefit got for  
6 JMSE or any of the land owning companies.

537 Q. But had there been a joint venture as Mr. Gogarty alleges,  
8 there could well have been such a benefit in that scenario;  
9 isn't that so?

10 A. No, no question of a joint venture, never met Mr. Bailey  
11 until 1992. There was no dispute over the sale of the  
12 lands with Mr. Reynolds and myself.

1 538 Q. And we know of course, that the assembling of this money  
14 involved a number of actions and procedures; isn't that  
15 right? It wasn't taken out of petty cash; isn't that so?

16 A. That's correct, yes.

1 539 Q. It involved a withdrawal, the writing of a cheque, and the  
18 subsequent refunding of that money; isn't that so?

19 A. That's correct.

2 540 Q. And that procedure we know involved Mr. Copsy and Mr.  
21 McArdle; isn't that so?

22 A. Correct.

2 541 Q. And obviously a payment of £30,000 is not an insignificant  
24 sum; isn't that so?

25 A. It certainly is not, yes.

2 542 Q. And you are suggesting that Mr., are you, that Mr. Gogarty  
27 procured the assembling of the £20,000 in cash, the signing  
28 of a cheque for £10,000 without disclosing to anybody what  
29 the purposes of that was?

30 A. I think that the people that you have mentioned there, Mr.  
31 O'Keeffe, Mr. Copsy and the late Denis McArdle have all  
32 furnished statements in which they categorically deny any

1 knowledge of this payment to Mr. Burke.

543 Q. And likewise, this was a matter which required to be dealt  
3 with in some manner or other in the accounts of the  
4 company; isn't that so?

5 A. Correct.

544 Q. And aren't all of these things completely inconsistent with  
7 Mr. Gogarty acting on a frolic of his own?

8 A. No.

545 Q. You said at, in your evidence, I think you have repeated it  
10 today, that you first became aware that a political  
11 contribution might have been paid on the afternoon of the  
12 1st of July, 1997?

13 A. Correct.

1 546 Q. That's after your second meeting with Mr. Ahern and you  
15 went to Mr. Copsey's office?

16 A. That's correct.

1 547 Q. I think you gave that evidence at page 86 of Day 109, and I  
18 think indeed you have reiterated it earlier. Can I - you  
19 are aware of course, that in cross-examining Mr. Ahern, Mr.  
20 Cooney, at page 100 of Day 50 said in relation to what your  
21 version of the telephone conversations with Mr. Ahern on  
22 the 10th of September of 1997 was, what Mr. Cooney put was  
23 "that new information from the former solicitors which  
24 enabled them to track down cheques for £20,000 and £10,000  
25 which had been drawn on the JMSE account" changed what you  
26 understood to be the position? In other words he referred  
27 to, Mr. Cooney, in cross-examining Mr. Ahern, referred to  
28 new information from the former solicitors, he didn't make  
29 any reference to any conversation you had with Mr. Copsey;  
30 isn't that so?

31 A. That's correct, yes.

3 548 Q. And in fact the first that anybody, at least outside JMSE,

1 knew of your visit to Mr. Copey's office on the 1st of  
2 July of 1997 was when you gave it in evidence on last  
3 Tuesday, the 30th of November, Day 109. It hadn't been  
4 previously disclosed in the statement that you or any other  
5 witnesses had put in and it hadn't been the subject of any  
6 references, references in cross-examination; isn't that so?

7 A. That may well be the case, yeah.

549 Q. But obviously that was a very important meeting, your  
9 meeting with Mr. Copsey?

10 A. Yes.

1 550 Q. Because for the first time on your case, Mr. Murphy, the  
12 possibility that such a payment had been made from JMSE  
13 funds reared its head; isn't that so?

14 A. That's correct.

1 551 Q. Did you, how did you react when Mr. Copsey told you that?

16 A. Well, I probed it more with Mr. Copsey, I said "do you know  
17 to who or was it a political party? Was it to a politician  
18 or Mr. Burke?", but he couldn't help me in anyway. As I  
19 said earlier on today, he said that he could remember some  
20 sort of a political contribution, I think involving Jim  
21 Gogarty, but that was it. He could give me no more  
22 information.

2 552 Q. Well, were you shocked or startled at what he told you?

24 A. A little bit, yeah, because up to that stage I wasn't aware  
25 that JMSE had paid the monies.

2 553 Q. Surely you would be more than a little bit shocked, you had  
27 now given assurances on two separate occasions to somebody  
28 who was now shortly to become a Government Minister, your  
29 company had taken a position in relation to communications  
30 from the press and you now discover for the first time that  
31 there is a possibility that the monies did emanate from  
32 JMSE, surely it is something to which you would have had a



1 swift and violent reaction, Mr. Murphy?

2 A. Yes, it is something that would have probably shocked me at  
3 the time, yeah.

554 Q. You don't sound, with the greatest of respect, that you  
5 were exactly overwhelmed, Mr. Murphy. You see, Mr. Copsey  
6 had also told you in May that there was no payment made to  
7 Mr. Burke; isn't that so?

8 A. That's correct.

555 Q. Well, then on the 1st of July did you say to him, "Look,  
10 why did you tell me in May that there was no payment to Mr.  
11 Burke"?

12 A. I had been specific to Mr. Burke, a telephone conversation  
13 early in May, as I said earlier on today, we sat down, I  
14 discussed some of the allegations, I don't even think that  
15 Mr. Copsey, I stand corrected on this, but I don't think  
16 that he was fully aware of what the allegations were in the  
17 media, I don't think that he bought the Business Post  
18 newspaper which the main allegations were made in. When I  
19 discussed it through with him, then he told me that he sort  
20 of remembered a political contribution, that's the evidence  
21 earlier on and that's exactly what happened.

2 556 Q. And your evidence was that he couldn't say what the amount  
23 was or even to what party this donation was made?

24 A. That's correct.

2 557 Q. Did that strike you as something that was strange or  
26 remarkable, Mr. Murphy?

27 A. No, it didn't sound strange or remarkable that he couldn't  
28 remember something going back 8 or 9 years.

2 558 Q. Did you feel that Mr. Copsey was being entirely candid with  
30 you?

31 A. I did.

3 559 Q. And while you said that Mr. Copsey didn't know the amount,

1 it was quite clear when you arrived in his office that your  
2 inquiry was in the context of a payment to Mr. Burke which  
3 was at that stage alleged to be of the order of 30 or  
4 £40,000; isn't that so, that was the context in which you  
5 were making these inquiries of Mr. Copsy?

6 A. I was making these inquiries yes, things were starting to  
7 expire a little bit at that time, and I was seeking, if he  
8 had any knowledge of anything like that.

560 Q. So when Mr. Copsy told you, as you say that he told you  
10 there was some sort of political contribution, you knew he  
11 was talking of a contribution of a magnitude which,  
12 something of the same order of magnitude of the amount of  
13 the alleged payments to Mr. Burke?

14 A. I did not. He wasn't specific with the amounts.

1 561 Q. But it wouldn't make any sense for him to venture this  
16 suggestion in any other context, would it?

17 A. He did not mention any amount.

1 562 Q. Mr. Copsy was the Financial Controller, wasn't that so?

19 A. In --

2 563 Q. He had been in 1990?

21 A. In 1990?

2 564 Q. 1989 rather.

23 A. Correct, yes, he was, yes. Financial Director, maybe,

24 yeah.

2 565 Q. And did you raise with him that neither you nor your father  
26 had authorised such a payment?

27 A. He, as I said in my evidence, he said he remembered  
28 something of a political contribution, he mentioned, I  
29 think he mentioned Jim Gogarty and no, I wouldn't have said  
30 I authorised it. Obviously if I knew about it or had  
31 authorised it I wouldn't be there asking him that question.

3 566 Q. Well, would Mr. Copsy or Mr. Gogarty have an authority to

1 authorise a very substantial political contribution from

2 JMSE?

3 .

4 MR. COONEY: There are two questions there, one relating

5 to Mr. Copsey and the other relating to Mr. Gogarty. I

6 think they should be asked separately.

7 .

567 Q. MR. CALLANAN: I am happy to split them up. Would Mr.

9 Gogarty have had authority to make a substantial political

10 contribution from JMSE or their related companies without

11 reference to you or your father?

12 A. Yes, that's what he did.

1 568 Q. No.

14 .

15 CHAIRMAN: That's not the question you were asked. Had

16 he authority? I know he did it.

17 .

1 569 Q. MR. CALLANAN: Was it something that was within his power

19 as you saw it?

20 A. No, we were - that's not, that size of a political

21 contribution was not something that was a regular feature

22 in anyway, shape or form.

2 570 Q. So he didn't have authority?

24 A. No, he did not.

2 571 Q. And likewise, Mr. Copsey wouldn't have had authority to

26 sanction or authorise or procure a payment of £30,000 to a

27 politician or a political party without reference to you or

28 your father?

29 A. Yes.

3 572 Q. And I think you have said you did find it credible that Mr.

31 Copsey was unable to recall anything of the payment other

32 than the possibility that there had been some sort of

1 political contribution?

2 A. I think it is. Here he was eight years later going from

3 memory, yes.

573 Q. You see Mr. Copsey, in his statement, says: "My memory of

5 this instant was that James Gogarty informed me" - sorry,

6 it is headed "£30,000 payment to Ray Burke". "My memory of

7 this incident was that James Gogarty informed me that a

8 political donation of this amount was to be made and asked

9 me to arrange from the money from within the Murphy Group

10 of companies"?

11 A. Yes.

1 574 Q. So presumably if that was Mr. Copsey's memory, it was his

13 memory across time from 1989?

14 .

15 MR. COONEY: That's a question for Mr. Copsey, Sir. My

16 Lord, this witness can't possibly look inside Mr. Copsey's

17 mind and memory.

18 .

19 CHAIRMAN: I think that's --

20 .

2 575 Q. MR. CALLANAN: Very good, Sir. Very good.

22 .

23 Given that this represented the first, on your case, the

24 first possibility that there had been a payment from JMSE

25 resources to Mr. Burke, did you take a note of the meeting

26 with Mr. Copsey on the 1st of July?

27 A. No.

2 576 Q. Why wouldn't you have kept a note on that occasion? This

29 is a truly momentous conversation?

30 A. Momentous conversation?

3 577 Q. In the context of the allegations, this is the first breach

32 in the wall so to speak, to the first glimmer of

1 possibility on the JMSE side, that the monies in fact had  
2 come from JMSE. I am asking you why --

3 A. It was the first indication I got that some sort of a  
4 political contribution may have been paid. I did not take  
5 a note of the meeting.

578 Q. And can I suggest to you that the reason you didn't was  
7 that you were concerned not to generate any incriminating  
8 document and to leave yourself at liberty in relation to  
9 whatever cover-up you felt JMSE were able to carry out in  
10 relation to --

11 A. I reject that completely, and utterly reject the use of the  
12 word "cover-up". We were investigating it thoroughly,  
13 which we did do at the time. I reject your allegations.

1 579 Q. Did you get on the telephone to your father arising out of  
15 this conversation?

16 A. I may well have.

1 580 Q. But surely it is a matter of very considerable moment?

18 A. Yes, this was the first indication that we got that a  
19 political contribution was made and we started to make  
20 further inquiries.

2 581 Q. Well, who did you tell about it? Who did you tell about  
22 this conversation?

23 A. I would have discussed it, I would have discussed it with  
24 Frank Reynolds at the time.

2 582 Q. And you didn't --

26 A. And our solicitors.

2 583 Q. But you may not have raised it with your father?

28 A. I may have raised it with him, I may have raised it with  
29 him later as the documentation started coming out, I  
30 certainly told him once we put the whole picture together,  
31 I would have told him.

3 584 Q. And I think, you referred earlier today to seeing Mr.

1 McArdle on two occasions?

2 A. Yes.

585 Q. And I think you said the first of those was shortly after

4 he had given copies of certain documents?

5 A. That's correct.

586 Q. Now, when were those copies of documents given by Mr.

7 McArdle to you or anybody else in JMSE?

8 A. No, he didn't give them to me or anybody else in JMSE. He

9 passed them over to Mr. Michael Fitzsimmons on the 11th of

10 August.

1 587 Q. I see. And presumably there was some form of covering

12 letter with those documents?

13 A. That's a matter for Michael Fitzsimmons. He going through

14 the memos of our internal meetings, and informed me that he

15 got copies of various documents and contracts for sale for

16 these lands on the 11th of August.

1 588 Q. And what was your purpose in going to see Mr. McArdle?

18 A. He obviously I think, had control of certain bank accounts

19 for that period, and I thought that he may well have more

20 information in this payment.

2 589 Q. What did you conclude on seeing the documents which Mr.

22 McArdle did provide?

23 A. I think that in or around the 11th, I think that Frank

24 Reynolds as well, had uncovered more documentation in or

25 around that period, a day or two before or a day or two

26 afterwards, and we had put the whole picture together in or

27 around that stage.

2 590 Q. What documents were they that Mr. Reynolds got around the

29 same time?

30 A. I think maybe bank statements. I think that there may

31 well have been a letter, Tim O'Keeffe letter, I am not sure

32 whether it was a letter to him or from him. But certainly

1 as I say, Mr. Fitzsimons has a list of the documentation  
2 that Mr. Reynolds brought him in, in or around that time.  
3 I think as I said bank statements, JMSE bank statements,  
4 and I think the Tim O'Keeffe letter, that I think that Ms.  
5 Dillon put to me earlier on.

591 Q. And whose idea was it to go to Mr. McArdle to look for  
7 these documents?

8 A. Discussing this with my solicitor, Mr. Fitzsimons. He  
9 would have said "we need to go to Mr. McArdle".  
10 .

11 MR. COONEY: Mr. Chairman, it is very difficult to see the  
12 point of all of these questions from Mr. Callanan. He is  
13 pre-empting Mr. Gogarty who has sworn repeatedly that this  
14 witness from 1989 must have known about the payment to Mr.  
15 Burke because he was one of the participants in the scheme  
16 that drew up the plan for payment, and was one of the  
17 participants in the actual payment itself.

18 .  
19 Now, it is very difficult to see what interest or right Mr.  
20 Callanan can have in asking these questions about these  
21 events, bearing in mind what his client's basic position  
22 is, Mr. Chairman. It is really contradictory.

23 .  
24 CHAIRMAN: I can see the force of your argument, none the  
25 less you have an executive, if I may use the global term,  
26 one would accept - sorry, I beg your pardon, one would  
27 expect that the executive would know what each member of it  
28 was doing. You have a number of situations arising, and I  
29 think he is entitled to explore the inter knowledge between  
30 the executives and that's what he is doing.

31 .  
32 MR. COONEY: Why can that be, Mr. Chairman? Because that

1 doesn't add up with the case that he is here to make?  
2 Namely, that Mr. Gogarty knew and has sworn that, and eight  
3 years before the events about which Mr. Callanan is now  
4 inquiring, that this witness whom he is now cross-examining  
5 was an active witness in the scheme to pay a bribe to a  
6 Minister for Government. I don't see, Mr. Chairman, how he  
7 can put forward an alternative scenario which seems to be  
8 the point of these questions?

9 .

10 CHAIRPERSON: No, he is certainly entitled, the case  
11 that's become made - well, the alternative to Mr. Gogarty,  
12 may I put it that way, I don't want to use the word  
13 "case". The alternative to Mr. Gogarty is, he was  
14 authorised, one version is he was authorised, the other is  
15 yes, he was authorised --

16 .

17 MR. COONEY: Where does this version come from?

18 .

19 CHAIRMAN: Mr. Gogarty says "I made the payment". He is  
20 a member of an executive group of men in your company, in  
21 the company, and the company, monies come out of the  
22 company account and a sequence of events, I don't want to  
23 go into them because I don't want to start a judgemental  
24 situation, but the situation is that we certainly are  
25 entitled to have inquiry as to whether or not this witness  
26 as a member of the executive, not necessarily as being the  
27 person present, now there is two issues here - one, this  
28 man has said in the most firm tones, "I wasn't there. I  
29 was in England". But he is also one of the Chief  
30 Executives of that company, subsequently becoming its  
31 Chairman within a matter of months. It is manifest that  
32 his father was introducing him from 1980 onwards into the



1 whole management structure.  
2 .  
3 Now were he, I am not purporting to suggest, but it seems  
4 to me he can be inquired into as to whether or not he knew  
5 about this movement or should have known because of the  
6 fact that he was in the executive grouping in the  
7 company. It seems to me to be reasonable.

8 .  
9 There is a question as to whether Mr. Gogarty is telling  
10 the truth or he is telling the truth as to whether he was  
11 there. That's No. 1 question. That's a different  
12 matter. The second question is was Mr. Gogarty  
13 authorised? Because he, does he has a member of the  
14 executive group, and Gogarty as a member of the executive  
15 group, did they know or were they, was the sequence of  
16 events one that was authorised or could be held to have  
17 authority? That's what that is about.

18 .  
19 Now, how it is advancing that? I agree with you on that  
20 one.

21 .  
22 MR. COONEY: Yes, Mr. Chairman, first of all assuming for  
23 a moment that that was a legitimate form of inquiry, I will  
24 come back on that in a moment, it is certainly not for Mr.  
25 Callanan to pursue it. He has been given representation  
26 here to represent his client, and apparently protect his  
27 reputation against attacks we have made on his reputation  
28 and credibility, that's fine. And in pursuance of that  
29 objective Mr. Callanan can only cross-examine this witness  
30 in accordance with what his client has told the Tribunal.

31 .  
32 Now, can I just finish, Mr. Chairman? You say there is an

1 alternative scenario, if there is, Mr. Chairman, then  
2 that's for the Tribunal to inquire into. I don't think the  
3 Tribunal can, because this is not an allegation that we  
4 have ever met, namely while this witness may not have done  
5 what Mr. Gogarty said he did, none the less because he was  
6 a Chairman, not a Chairman but a member of the Board of  
7 Directors at that particular time and had, as you say, an  
8 executive function, although only in relation to the Irish  
9 companies, has been the sworn evidence, that therefore he  
10 may have known about the payment that Mr. Gogarty made.

11 .

12 Now, that's not an allegation, Mr. Chairman, which comes  
13 from any statement from any witness in this Tribunal, and  
14 it is not an allegation of which we have notice,  
15 Mr. Chairman.

16 .

17 CHAIRMAN: It is an inquiry which arises on the facts.

18 .

19 MR. COONEY: With respect, Mr. Chairman, here we have, I  
20 mean again this is a serious matter and I don't want to be  
21 contentious at all, Mr. Chairman, about this, but really,  
22 Mr. Chairman, it seems from what you had said to us now,  
23 that in a sense we are now faced with an alternative but  
24 equally damaging scenario, that while we didn't participate  
25 in the bribery of Mr. Burke as Mr. Gogarty has sworn we  
26 did, we may none the less be culpable because at that stage  
27 we were director of a company from whose funds the money  
28 was drawn. That's not an allegation of which we have any  
29 notice, Mr. Chairman, and not an allegation of which we  
30 have been defending ourselves since this Tribunal started  
31 nearly 12 months ago. It is rather an alarming scenario I  
32 have to say with respect.

1 .  
2 But if I return to my original objection, I don't think it  
3 lies in Mr. Callanan's mouth to deal with these matters, My  
4 Lord, because they don't accord with the allegations made  
5 by his client, nor does it, can it be said to be protecting  
6 his client's interests before this Tribunal, and that's why  
7 he is here specifically, Mr. Chairman.

8 .  
9 I think he should leave this matter, it isn't that, I will  
10 be leading evidence as to the exact sequence of events  
11 which occurred during the critical period from the 1st of  
12 July to the 10th of September, but I don't think that this  
13 is a matter for Mr. Callanan, it was a matter for the  
14 Tribunal. It may be a matter that the Tribunal may want to  
15 pick up again when it is conducting its final examination,  
16 but certainly not a matter for Mr. Callanan.

17 .  
18 MS. DILLON: I am - in relation to that, Sir, just in  
19 relation to the last point made by Mr. Cooney before Mr.  
20 Callanan replies; I am a little bit concerned, I presume  
21 that I am taking this up incorrectly, but I will draw my  
22 concern to your attention in any event. Mr. Cooney says  
23 that he will be leading evidence "as to the exact sequence  
24 of events which occurred during the critical period from  
25 the 1st of July to the 10th of September but I don't think  
26 this is a matter for Mr. Callanan, it is a matter for the  
27 Tribunal. It may be a matter that the Tribunal want to pick  
28 up, want to pick up again when its conducting final  
29 examination but certainly not a matter for Mr. Callanan".

30 .  
31 I just want an assurance from Mr. Cooney that these are all  
32 documents and sequences of which the Tribunal are all

1 aware, and there is no document which is coming through  
2 which the Tribunal is not circulated with?

3 .

4 MR. COONEY: Ms. Dillon must know at this stage we are  
5 under no obligation to furnish to the Tribunal, we are  
6 under an obligation to comply with an order for documents,  
7 so far as I am aware we have done so, but we are entitled  
8 to introduce any other evidence in any form which we  
9 consider to be in our best interest.

10 .

11 MS. DILLON: Yes, the procedures of this Tribunal as set  
12 out by you on, I think the 12th of January of 1997, was  
13 that all relevant material should be circulated, and  
14 parties who may be affected by that material should have  
15 adequate notice of that material. Mr. Cooney now seems to  
16 be saying that insofar as he is concerned this rule does  
17 not appear to apply to him.

18 .

19 My concern again is the concern in relation to fair  
20 procedures. If Mr. Cooney has information that he intends  
21 to lead with this witness which the Tribunal is unaware and  
22 which has not been circulated, the Tribunal should now be  
23 furnished with that information, and if it is appropriate  
24 that information will be circulated.

25 .

26 I am concerned, particularly in the light of the fact that  
27 in the course of the cross-examination of Mr. Dermot Ahern  
28 matters were put to Mr. Ahern in relation to which there  
29 was a memorandum, which was not until the evidence was  
30 completed, furnished to the Tribunal.

31 .

32 The procedures that this Tribunal has adopted and which

1 have been dealt with throughout the hearings over the last  
2 number of months are well-known to everybody. It is, as  
3 Mr. Cooney keeps saying, cards face up on the table, no  
4 ambushes, no surprises, no sandbagging anybody. If there  
5 is something coming in relation to Mr. Cooney's examination  
6 of this witness, of which the Tribunal is unaware, I am  
7 asking Mr. Cooney to inform the Tribunal now in relation to  
8 that matter so that it can be circulated and dealt with it  
9 in the normal fashion.

10 .

11 MR. COONEY: Mr. Chairman, I don't recall specifically  
12 every case I have been in, in 39 years at the bar, but I  
13 can't remember ever sandbagging or ambushing my own  
14 witness, and I don't intend to do that, I intend to  
15 cross-examine Mr. Murphy, as I am entitled to according to  
16 the procedure laid down, and there are matters that have  
17 occurred during Ms. Dillon's long examination of Mr. Murphy  
18 which requires to be dealt with in my cross-examination,  
19 that's what I intend to do, and do not believe,  
20 Mr. Chairman, that I will be introducing any new matter of  
21 much concern, but even if I was, Mr. Chairman, I am  
22 perfectly entitled to do that.

23 .

24 CHAIRMAN: Well, first of all, I am glad to hear you say,  
25 because I am getting concerned that some other person, some  
26 third party in the Tribunal's reputation might be adversely  
27 affected by something that you were going to introduce  
28 without notice to him. Now, it is a different matter if  
29 you are simply putting your client's case to your client.  
30 Of course that's perfectly permissible.

31 .

32 MR. COONEY: No question of anything else.

1 .

2 CHAIRMAN: But the whole purpose of these ideas is to try  
3 and, to have totally fair procedures, that nobody is  
4 suddenly confronted in the witness-box, with an allegation  
5 that they have done something improper without notice in  
6 advance, and that applies to everybody. It doesn't - Mr.  
7 Cooney, you have indicated that you are not going to do  
8 that.

9 .

10 MR. COONEY: Of course not, Mr. Chairman, therefore the  
11 discussion, I say with respect, is superfluous.

12 .

13 CHAIRMAN: That's - the point we are making is we should  
14 know in the Tribunal, in advance, that nobody is, nobody's  
15 reputation is going to be assailed without notice to them,  
16 no matter who is going to do the assailing, that's the  
17 whole purpose of the exercise. And I would certainly say  
18 that if that were true I would be inviting you to circulate  
19 the information. You now say that's not going to be --

20 .

21 MR. COONEY: It never was and I didn't indicate it was.

22 .

23 CHAIRMAN: What you said was that you were going to put  
24 scenarios, etc..

25 .

26 MR. COONEY: No, I said I was going to deal with what  
27 seems to be a critical period between the 1st of July and  
28 10th of September, which is the date of Mr. Burke's speech  
29 in the Dail. Nothing I think by any reasonable inference  
30 could be said, or reasonably inferred from that statement  
31 that I was proposing ambush or indeed drawing somebody else  
32 into these proceedings.

1 .  
2 Can I get back to the point I made originally, which is  
3 about Mr. Callanan's current line of examination, and ask  
4 for a ruling, because we have been diverted away from that  
5 principle point by Ms. Dillon's intervention?

6 .  
7 CHAIRPERSON: Mr. Callanan, I think that you are beginning  
8 to go outside your remit. I think you are entitled to look  
9 at this witness and challenge his credibility, but I don't  
10 think you can make a different case to the one your client  
11 made, you can try to challenge his credibility on a  
12 particular aspect and the border line and the frontier  
13 between the two may be quite blurred, but I think you have  
14 now crossed that frontier.

15 .  
16 MR. CALLANAN: Yes, Sir. If I just say that what I am  
17 endeavoring to do, among other things, is to quite simply,  
18 and it is fairly standard cross-examination technique,  
19 which I am sure Mr. Cooney has frequently resorted to, I am  
20 trying to take Mr. Murphy's evidence, to demonstrate that  
21 it must be false, and I do it in that legitimate  
22 cross-examination technique. It doesn't amount to  
23 departure from the case which Mr. Gogarty has made. I do  
24 think it is a common device, to take a position as a whole  
25 and to seek that it is, simply does not cohere, does not  
26 hang together. Sir, I am obviously endeavoring to do that  
27 in the most exact way possible.

28 .  
29 CHAIRMAN: Well, on that principle that you have  
30 enunciated, that you are seeking to establish that the  
31 witness is not telling the truth, in other words going to  
32 his credibility, and not making an alternative case to the

1 witness Mr., you as Mr. Gogarty's counsel have been  
2 propounding, I will listen to it for a limited period but  
3 within those limited parameters, because you certainly can  
4 do that, there is no doubt about that, but you cannot  
5 certainly set, that works - that's working on the principle  
6 that this witness was present, that's the principle that  
7 that is working on, it has to work on.

8 .

9 MR. CALLANAN: Very good, Sir. I will be some more time  
10 and --

11 .

12 CHAIRMAN: Well then, if you are going to be some more  
13 time we are all getting a little -- at the end of the  
14 day, and half past ten tomorrow morning.

15 .

16 MS. DILLON: Yes, half past ten morning. We have the  
17 Gardai witnesses. Sorry, I beg your pardon, it is  
18 Wednesday. My mistake, Sir.

19 .

20 CHAIRMAN: All right, half past ten tomorrow morning.  
21 Just as a matter of interest, have you an estimate of your  
22 potential time?

23 .

24 MR. COONEY: An hour to an hour and a half, I think. Just  
25 a few net points that I have to deal with.

26 .

27 CHAIRMAN: Naturally.

28 .

29 MR. COONEY: The matter has been well covered.

30 .

31 MR. COONEY: May it please Your Lordship.

32 .



1 THE HEARING THEN ADJOURNED UNTIL THE 7TH OF DECEMBER, 1999

2 AT 10:30AM.

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