

TRIBUNAL OF INQUIRY
INTO CERTAIN PLANNING MATTERS

Given under Official Seal
of the Minister for the Environment and Local Government
this 4th day of November 1997
pursuant to the
Tribunals of Inquiry (Evidence) Acts 1921 and 1979



TRANSCRIPT OF PROCEEDINGS HELD BEFORE CHAIRMAN,
MR. JUSTICE FLOOD, IN THE PRINIWORKS BUILDING,
DUBLIN CASTLE,
ON 14TH OF JANUARY, 1998 AND FOLLOWING DAYS.

TRANSCRIPT OF PROCEEDINGS ON FRIDAY, 30TH JUNE, 2000:

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I hereby certify the following to be a true and accurate transcript of my shorthand notes of the above named proceedings.

Viola Doyle
Nichelle Coffey
DOYLE COURT REPORTERS,
2, ARRAN QUAY, DUBLIN 7.

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A P P E A R A N C E S

PLEASE NOTE THAT ALL APPEARANCES STATED BELOW DO NOT INDICATE
THEIR ATTENDANCE AT EACH SITTING.

The Sole Member of the Tribunal:

The Honourable Mr. Justice Feargus Flood

Counsel to the Tribunal:

Mr. John Gallagher SC
Mr. Pat Hanratty SC
Mr. Des O'Neill SC
Ms. Patricia Dillon SC
Ms. Eunice O'Raw BL
Ms. Mairead Coughlan BL

Solicitor to the Tribunal:

Ms. M. Howard

Counsel for Joseph Murphy

Structural Engineering:

Mr. Garrett Cooney SC
Mr. Daniel Herbert SC
Mr. Michael Cush SC

Instructed by:

Michael Fitzsimons,
Fitzsimons Redmond & Co.,
Solicitors,
18 Upper Fitzwillima St.,
Dublin 2.

Counsel for Mr. Michael Bailey
and Bovale Developments:

Mr. Colm Allen SC
Mr. Eamonn Leahy SC
Mr. Garrett Simons BL

Instructed by:

Mr. Kevin Smith,
Smith Foy & Partners,
Solicitors,
59 Fitzwilliam Square,
Dublin 2.

Counsel for
Mr. James Gogarty:

Mr. F. Callanan SC
Mr. B. O'Moore SC

Instructed by:

McCann Fitzgerald,
Solicitors.

Counsel For Mr. Ray Burke:

Mr. A. Walsh SC
Mr. J. Fox BL

Instructed by:

Vincent Shannon.
Shannons Solicitors,
29 Main St.,
Swords.
Co. Dublin.

Counsel for Mr. Joe O'Toole:

Mr. Meehan BL

Mr. Murray BL

Instructed by:

Bergin Burke

and Ryan,

Solicitors.

Representing Mr. George Redmond:

Mr. A. Harris,

Solicitor.

I N D E X

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NOTICE:

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EXAMPLE: - DOYLE [2] 30:21 45:32

**THE WORD "DOYLE" OCCURS TWICE
PAGE 30, LINE 21
PAGE 45, LINE 32**

1 THE HEARING RESUMED ON THE 30TH OF JUNE, 2000, AS FOLLOWS:

2 .

3 CHAIRMAN: Good morning everyone.

4 .

5 REGISTRAR: Decision of the Sole Member of the Tribunal on

6 the application on behalf of Mr. Ray Burke to adjourn the

7 sittings scheduled to commence on Tuesday the 4th of July,

8 2000.

9 .

10 CHAIRMAN: The Tribunal is inquiring into the

11 circumstances surrounding the payment of monies by Mr.

12 Oliver Barry to Mr. Ray Burke in 1989 and related matters.

13 The taking of evidence in public in relation to this aspect

14 of the Tribunal's work is presently scheduled to commence

15 on next Tuesday, July 4th.

16 .

17 Counsel on behalf of Mr. Burke has applied for an

18 adjournment of these public sittings for three weeks until

19 the 25th of July of this year, on the grounds that he, and

20 his clients, have not had sufficient time to prepare for

21 these sittings.

22 .

23 I have received written submissions and heard oral

24 submissions in support of this application. It is

25 submitted on behalf of Mr. Burke, as a matter of fair

26 procedures, that he has a constitutional right to be given

27 an adequate opportunity to prepare himself for the hearing

28 of this evidence, and in particular to consider the

29 relevant documents.

30 .

1 With this proposition I wholeheartedly concur.

2 .

3 What I find surprising, however, is the suggestion that Mr.
4 Burke has not had - has not, in fact, had an adequate
5 opportunity to prepare himself for this evidence. As
6 counsel to the Tribunal has pointed out, Mr. Burke has
7 known since early last year that the payment by Mr. Barry
8 was a matter into which the Tribunal was inquiring. Last
9 week Mr. Burke's lawyers were furnished with the documents
10 which the Tribunal has identified as being relevant, and
11 which it intends to put in evidence. These amounted to two
12 folders of documents. They were also furnished with
13 statements of evidence from the witnesses from whom the
14 Tribunal had received statements and a summary of the
15 evidence of the witnesses from whom statements had not yet
16 been received.

17 .

18 In addition, Mr. Burke's lawyers were told on June 8th that
19 they could, if they wished, inspect the remaining
20 documentation which the Tribunal had received and which was
21 considered irrelevant. This offer was not taken up until
22 the 23rd of June; and when it was, Mr. Burke's solicitor
23 spent no more than two hours inspecting these documents,
24 and has not asked to see them since.

25 .

26 I am also conscious of the correspondence exchanged between
27 the Tribunal and Mr. Burke's lawyers in which, in a letter
28 dated the 23rd of June, we were informed that it was the
29 Tribunal's intention not to call Mr. Burke until after most
30 of the other witnesses had given their evidence, and that

1 it was probable that Mr. Burke would not be required to
2 give evidence until the latter half of July. Mr. Burke's
3 lawyers were also told in a letter of the 16th of June,
4 that if at any stage of the evidence any genuine difficulty
5 arose, I would deal with an application for an adjournment
6 on its merits.

7
8 It is also admitted on behalf of Mr. Burke and his lawyers;
9 sorry, it is also admitted submitted on behalf of Mr. Burke
10 that his lawyers have to identify and trace witnesses,
11 interview them and obtain statements from them. The
12 Tribunal itself has identified the personnel in RTE; in the
13 IRTC; in the Department of Communications, who are dealing
14 with matters under consideration and will be calling them
15 to give evidence. Insofar as Mr. Burke's lawyers consider
16 that it is appropriate, or necessary, for them to approach
17 witnesses or to obtain statements, I am at a loss to
18 understand why this has not been done long ago, together
19 with most of the other various preparatory steps which I am
20 told have yet to be taken.

21
22 In all these circumstances I am far from convinced that Mr.
23 Burke has not had a sufficient opportunity to prepare
24 himself for the forth coming sittings. However, in
25 deference to the statement by Senior Counsel that he
26 required further time to prepare for this evidence, and
27 having regard to the fact that the Tribunal has, in any
28 event, plenty of other matters which require to be attended
29 to in private, I have reluctantly decided to acceded to the
30 request for an adjournment; but I propose to limit the

1 adjournment to two weeks, which I consider to be more than
2 sufficient. Consequently I will adjourn the public
3 sittings scheduled in this matter from the 4th of July to
4 the 18th of July of this year.

5 .
6 There is one further matter to which I wish to refer. The
7 Tribunal has, since February of this year, been trying to
8 obtain certain information from Mr. Burke, details of which
9 are set out in correspondence. So far Mr. Burke has failed
10 to provide this information to the Tribunal. I would now
11 invite Mr. Burke to reconsider his position, and to reflect
12 upon his approach to the furnishing of this information and
13 to assist the Tribunal in expediting its work by providing
14 the Tribunal with all of the information which it has been
15 seeking, without further delay.

16 .
17 I would also repeat the Tribunal's request for a
18 comprehensive Statement of Evidence from Mr. Burke.

19 .
20 MR. WALSH: Thank you, Sir, the last two matters are being
21 dealt with and will be finalised next week. As you know,
22 Sir, we have furnished information but we have had to trace
23 back a long time some cheques and bank information, and the
24 bank have lost their original records, but we have
25 assembled a comprehensive reply which will be furnished to
26 you next week, Sir.

27 .
28 I should emphasise that the adjournment is necessary for
29 the legal advisors of Mr. Burke to have the case ready. It
30 is not so much Mr. Burke requiring the adjournment. Thank

1 you very much Sir.

2 .

3 CHAIRMAN: I note what you are saying. I note what you
4 are saying. Thank you.

5 .

6 MR. GALLAGHER: Sir, there is a matter relating to a
7 summons served on P. J. Walsh and Company to produce
8 documentation to Tribunal. Mr. Sexton has attended here on
9 foot of that summons and the matter has been adjourned on a
10 number of occasions, at his request, on his undertaking to
11 the Tribunal not to release, or dispose of the documents in
12 anyway for the moment.

13 .

14 I understand that, I know Mr. Sexton is here and I
15 understand that he wishes the undertaking to continue and
16 wishes to have the matter further adjourned. So perhaps
17 you could hear Mr. Sexton?

18 .

19 CHAIRMAN: Mr. Sexton, what can I do for you?

20 .

21 MR. SEXTON: Mr. Chairman, I would ask, if I may, that
22 this matter be adjourned, generally, on my undertaking not
23 to part with the documents; and then when we are agreed on
24 a course, then I will do so --

25 .

26 MR. GALLAGHER: I think, if you adjourn generally we can
27 arrange to have the documents produced on notice to Mr.
28 Sexton, on his undertaking to you not to release them to
29 any other party.

30 .

1 CHAIRMAN: Very good. I will adjourn it on that basis,
2 and subject to you being notified on, with reasonable
3 notice, to produce the documents on a given occasion to the
4 Tribunal, or here in public. Yes, very good.

5 .

6 MR. GALLAGHER: Either in public or to the Tribunal, Mr.
7 Sexton, whatever the Tribunal and Mr. Sexton agree.

8 .

9 CHAIRMAN: Whatever situation you agree is appropriate.
10 Thank you very much Mr. Sexton. Thank you for coming
11 down. Thank you.

12 .

13 MR. SEXTON: Thank you.

14 .

15 MR. GALLAGHER: Mr. Tom Bailey please?

16 .

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