

THE HEARING RESUMED ON THE 11TH OF NOVEMBER, 1999, AS  
FOLLOWS:

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REGISTRAR: Resumption of the evidence of Mr. Bartholomew  
O'Shea.

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CHAIRMAN: Good morning Mr. O'Shea.

A. Morning, Mr. Chairman.

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CHAIRMAN: When you are ready Miss Dillon.

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THE WITNESS CONTINUED TO BE EXAMINED AS FOLLOWS BY MS.

DILLON:

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MS. DILLON: Yes, sir. Good morning Mr. O'Shea?

A. Good morning Ms. Dillon.

1 Q. You remember yesterday afternoon we were, we had looked at  
the correspondence between yourself and Dublin Corporation  
in 1987?

A. Yes.

2 Q. You had told us that up to the middle of November of 1987  
that you were in active negotiations with the Corporation  
about selling the four acres at Poppintree?

A. Well, I got a letter from them. I was speaking to the  
valuer, that's right.

3 Q. You had told us that up to that period of time you had not  
been discussing the sale of the four acres at Poppintree  
with Jim Gogarty?

A. Oh no, no.

4 Q. So sometime after the 17th of November of 1987, I think you  
told us yesterday you were told by the Corporation that  
they were not going to buy the four acres?

A. That's right. I was told by the Corporation, I was told by the councillors that they weren't going to pay £80,000 for land for the itinerants.

5 Q. Right. So you looked around then for another purchaser for your property?

A. Well, I was speaking to my accountant which was our resident accountant, and he lived quite near it, and he was very annoyed and I didn't like to - that the itinerants were coming in, I told them they were not coming in there. But I would have to ask Jim Gogarty, he was in charge by Joe Murphy, he might stop the itinerants and that coming in there, and they are taking it --

6 Q. You approached Mr. Gogarty?

A. I approached Mr. Gogarty, yes.

7 Q. To tell him that you were interested in selling the four acres at Poppintree?

A. That's right. That's right.

8 Q. Can you, this, I think you told us yesterday, took place after the 17th of November of 1987?

A. I couldn't tell you when it took place. I haven't a clue, if you say it was that time, that's that.

9 Q. No Mr. O'Shea, you told us yesterday that during the time that you were dealing with the Corporation, you did not deal with Mr. Gogarty?

A. Oh, no. No, I did not, no.

10 Q. In the last correspondence we showed that your discussions with the Corporation were still active was the 17th of November, of 1987?

A. 1987? Okay, yeah.

11 Q. So you agreed yesterday that at least up to that date you had not approached Mr. James Gogarty about the four acres at Poppintree?

A. I don't think. I forget now whether I did or not.

12 Q. So it would be reasonable to conclude that the first time you approached Mr. Gogarty about buying these four acres was after the 17th of November of 1987?

A. Oh, I suppose it was. I expect it was. I couldn't tell you when I met --

13 Q. Well, I would like you to try and assist the Sole Member now as much as you can, Mr. O'Shea?

A. I will do the best I can now. But --

14 Q. By trying to remember when you met Mr. Gogarty?

A. I couldn't tell you the date when I met him.

15 Q. Well, can you remember where you met him?

A. I don't know. Well, I think it was the Skylon Hotel or somewhere like that.

16 Q. And do you have any idea when you met Mr. Gogarty to discuss the sale of the four acres at Poppintree?

A. Oh, I can't remember the date at all. I couldn't remember a date.

17 Q. And can you tell me what discussions you had with Mr. Gogarty at that time?

A. I must - I was talking to him about the land, the land in Poppintree. And would he be interested in buying it. So, we had several discussions on it then. Then he went to Liam Conroy and he was discussing it with him and we had another meeting anyway, and he said a long time after it, because Conroy was away on holidays or something like that, and he wanted to see Conroy. Conroy was his boss at that time. And after some time he came, he came back to me and we had another meeting, and he said, I offered; I asked - I got 65 for it, but I asked more anyway, that kind of stuff, but we eventually agreed it.

18 Q. And I think you have said that you had a number of

discussions with Mr. Gogarty?

A. I expect I had, yes.

19 Q. And over what period of time did these discussions take place?

A. Oh God, I don't know.

20 Q. Mr. O'Shea?

A. Oh they were, it went on for quite a long time, mind you.

21 Q. Did it go on for two months, three months or six months?

A. It went on for mostly two months anyway, I would say.

22 Q. So, you met him on a number of occasions over a two month period?

A. I did, yes, I often met him, yes.

23 Q. Did you meet Mr. Liam Conroy to discuss this?

A. No. No, he never came near me, he never came near me, that man at that time.

24 Q. Now, in the course of those discussions did Mr. Gogarty mention to you that he had a problem with fencing in the Balgriffin lands?

A. Oh, that's right. He had a problem with fencing, that's right, and when we agreed on a price he says "you are a great friend of Redmond's, I would like to met him" he says. "That's one mistake I made, I never played golf, you play golf with Redmond". "By God" says I "if you want to met him I will ring him up and we will make an appointment someday".

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About a week afterwards we met in O'Connell Street and we went up to see George and there wasn't much talk about the boundary at all when we went up, there was more talk about Poppintree and land, about lands, roads and drains and all that caper. So I wasn't very interested in it, that kind of stuff, you know? So we weren't there very long, as far

as I remember. I don't think we were there very long. We came down, we came down.

25 Q. It is somewhat important, Mr. O'Shea, that we try and fix the time that, the date that you brought Mr. Redmond, that you brought Mr. Gogarty in to meet Mr. Redmond.

A. I don't know. I couldn't give you a date at all.

26 Q. I accept that; so we, I want to show you some documents?

A. Yeah.

27 Q. That deal with matters around this time. I think you have agreed that up to the 17th of November of 1987 when you were dealing with the Corporation, you did not deal with Mr. Gogarty about the Poppintree lands?

A. No. No.

28 Q. So that any discussion you had with Mr. James Gogarty, including his request to be introduced to Mr. George Redmond, must have taken place after the 17th of November of 1987?

A. I don't know when it took place. I haven't a clue when it took place. I have no memory of dates at all whatsoever.

29 Q. Well, I am going to try and assist you now as much as I can in relation to the dates, Mr. O'Shea, but do you agree with me, that if you didn't speak to Mr. Gogarty before the 17th of November 1987, because you were dealing with the Corporation about the Poppintree lands, the conversations you just discussed could not have taken place before the 17th of November?

A. I suppose so.

30 Q. You agree that that follows?

A. I am still mixed up on dates, that kind of stuff. If you say it didn't take place, that must be the truth.

31 Q. No, Mr. O'Shea, it is not a question of what I am saying. You said yesterday that when you were negotiating with the

Corporation you did not negotiate with Mr. James Gogarty?

A. No.

32 Q. We know that the negotiations were still active as of the 17th of November of 1987, you were still dealing with the Corporation. We saw that yesterday from the documents?

A. Is that right?

33 Q. Yes. Now, and I think you agreed with me yesterday, that until the Corporation said they were not buying the lands for £80,000, you did not go to Mr. James Gogarty about the Poppintree lands?

A. I am mixed up again. I suppose I didn't.

34 Q. Now, I want to show you a document that has been introduced in evidence already, and this is part of extracts from the diary of Mr. George Redmond. And I am dealing particularly with January of 1988.

A. 1988, yeah.

35 Q. And it is going to come up on the screen beside you?

A. Yeah.

36 Q. Now --

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MR. HERBERT: I wonder, Mr. Chairman, would the witness prefer again, subject of course to Ms. Dillon conducting her examination in anyway that pleases her and pleases you; would it be better if he had an actual document that he can hold and look at? I find a difficulty reading off these screens.

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CHAIRMAN: Sure, we will do both.

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MS. DILLON: We will do both.

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MR. HERBERT: Thank you very much, Mr. Chairman, it is

only a suggestion.

CHAIRMAN: As a matter of fact, I haven't found it yet in the diary. I am with you. It is either on the screen - is it on the screen?

37 Q. MS. DILLON: The first entry I want you to look at is the 15th of January. (Document handed to witness)?

A. 15th of January means nothing to me. What is this?

38 Q. Now, there is an entry there, Mr. O'Shea, for the 15th of January?

A. Oh, yes.

39 Q. 9:30?

A. Oh, yes, this is Redmond's diary; is it?

40 Q. This is the diary of Mr. George Redmond?

A. Oh, yeah.

41 Q. For 1988.

A. 1988.

42 Q. And the date here is the 15th of January, 1988.

A. Yes.

43 Q. And there is an appointment there "9:30 Gogarty".

A. Gogarty. Is that right? 9:30, I suppose it is in the diary.

44 Q. Yes; and that would appear to suggest --

A. Was that the first time I took Gogarty there? I took Gogarty into Redmond.

45 Q. Yes, I am afraid we are going to try to work that out between us Mr. O'Shea, as best we can. You rang Mr. George Redmond; is that right?

A. I did, yes.

46 Q. And you asked him for an appointment?

A. Correct.

47 Q. And you were the person that he knew?

A. That's right.

48 Q. And if Mr. Gogarty was looking for an introduction; up to this point Mr. Gogarty did not know Mr. Redmond?

A. Oh no, he did not, no, I don't think so. He might have heard tell of him but I don't think he knew - I don't know whether he knew him or not. I am not a mind reader.

49 Q. But Mr. Gogarty asked you to bring him in to meet Mr. Redmond?

A. He did, yes, correct.

50 Q. Right. So you rang Mr. Redmond?

A. I did.

51 Q. And Mr. Redmond made an appointment to see Mr. Bat O'Shea?

A. Is that right?

52 Q. Is that right?

A. It could be, I suppose, yes.

53 Q. Well, can you tell me what you said to Mr. Redmond when you rang him up?

A. I said, what did I say? Oh, I said Gogarty was buying the land in Poppintree, which he was anxious to get rid of. Which I was tormented from and he would like to meet you. As I told you before, he was interested in the boundary in Balgriffin. That is as far as I can remember now.

54 Q. And you were the person who was known to Mr. Redmond; isn't that right?

A. That's right, yeah, I was an old friend of his, yes.

55 Q. So one would assume; and it is really only an assumption that if you were making an appointment with Mr. Redmond, it is your name that would appear in the diary?

A. I couldn't tell you what he put in the diary.

56 Q. Well, in the normal course --

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MR. HERBERT: I think in all fairness, and My Friend I am

sure knows this, this is not a proper question to ask this witness. It is a matter for Mr. Redmond. What Mr. Redmond would do or would not do is a matter for him.

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CHAIRMAN: Well, I doubt if we can bring this much further Ms. Dillon. Unless you think you can.

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MS. DILLON: Very good.

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CHAIRMAN: The simple reason is that it is an assumption that the first time Gogarty's name appears in the diary is subsequent to the time, is either the day or subsequent to the day on which this witness introduced him; isn't that a fair assumption to be drawn from the facts as we know them? That entry for the 15th of January of 1988 is the meeting, the introduction, or alternatively it was sometime shortly before that that Redmond and - sorry, Redmond and Gogarty become acquainted.

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MS. DILLON: But what I am suggesting to the witness is that as Mr. O'Shea was the contact point between Mr. Gogarty and Mr. Redmond, that it is likely as opposed to unlikely, that the appointment would reflect the name of Mr. Bat O'Shea as subsequently appeared in the diary, rather than Mr. Gogarty on his own.

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CHAIRMAN: Oh, I beg your pardon. I misunderstood you. Is there another appointment which has --

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MS. DILLON: Mr. O'Shea appears, I am going to go through the diary entries, appears on, I think, four occasions between 1988 in the diary of Mr. Redmond. I will take him

through each of those entries in which he appears.

CHAIRMAN: I apologise for intervening without full knowledge of what you are going to do.

57 Q. MS. DILLON: What I am suggesting to you, Mr. O'Shea, to be fair to you, is that if you were the person who was known to Mr. Redmond, which you were?

A. Yes.

58 Q. And if you were bringing in somebody else to meet Mr. Redmond?

A. Yes.

59 Q. The name that would appear in the diary would be your name?

A. I couldn't tell you what appeared in the diary. I mean, I often rang Redmond on several occasions, that there was a semi open in Elmpark, was he able to play? I don't know what he put in his diary.

60 Q. But in the normal course of events if you made an appointment to go in to see Mr. Redmond for business purposes or other purposes?

A. I had no business with Mr. Redmond, with Redmond.

61 Q. Yes, but your name, I think you agree, you have seen this diary; isn't that right, Mr. O'Shea?

A. If it is there it is there. I can't think of it.

62 Q. And your name does appear on other occasions?

A. On several occasions when there was a semi open on, because he was very anxious about playing at Elmpark and he used to have great crack there with the lads, the members knew him.

63 Q. It would appear on other occasions when he was making arrangements with you, whatever those arrangements would have been about, that he put your name in the diary?

A. I couldn't tell what you he put in the diary.

64 Q. But you have seen the diary, Mr. O'Shea; isn't that right?

A. I have seen the diary? This thing here?

65 Q. Yes.

A. I have seen that.

66 Q. It is a photocopy of it?

A. That's right. That's right, okay.

67 Q. Sorry, I think My Friends need a photocopy of the relevant extracts from the diary. (Document handed to counsel)

But it would appear, Mr. O'Shea, that if Mr. Gogarty had an appointment at 9:30 on the 15th of January, 1988, with Mr. Redmond, that was not an appointment with which you were involved?

A. 9:30, I know it wasn't 9:30 in the morning.

68 Q. You know it wasn't 9:30?

A. No.

69 Q. You didn't bring him in at 9:30?

A. No.

70 Q. That meeting on 9:30 on January the 15th was not the meeting that you brought Mr. Gogarty in to meet Mr. Redmond?

A. I don't ever remember going to see Redmond at 9:30 in the morning.

71 Q. If you didn't bring Gogarty in on the 15th of January?

A. I couldn't tell you when I brought him in, I haven't a clue.

72 Q. I think you said that the meeting did not take place at 9:30?

A. It didn't take place at 9:30.

73 Q. That is a 9:30 appointment. That is what it appears to say. It is in front of you, Mr. O'Shea?

A. 9:30, I see. Oh, I can't - yeah. 9:30. I don't know why he put down 9:30 he must be, I never met him at 9:30.

74 Q. Now, there is a subsequent entry in the diary that relates

to Mr. Gogarty, which is the 20th of January?

A. Yeah.

75 Q. Which should come up on the screen. It will come up on the screen and we will give you the document (document handed to witness). This relates to an another appointment with Mr. Gogarty and Mr. Redmond?

A. I couldn't tell you anything about that.

76 Q. I know that Mr. O'Shea. But there is, in addition to that entry in the diary for the 20th of January, 1988, an invoice?

A. An invoice?

77 Q. That doesn't relate to you. It is an invoice that was introduced in evidence when Mr. Redmond was giving evidence. And it is an invoice from Conroy Manahan?

A. Yeah.

78 Q. And associates.

A. I don't know anything about that.

79 Q. Yes; and that invoice, I am just telling you while we were locating the invoice, Mr. O'Shea; shows that Mr. Gogarty, Mr. Redmond, and Mr. Manahan had a meeting on the 20th of January, 1988?

A. Is that right? I never heard a word about that.

80 Q. No, I am not asking you. I am only showing it to you so I can ask you some other questions.

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MR. CALLANAN: Mr. Gogarty accepted in his evidence, on being examined by Mr. O'Neill, that there was such a meeting.

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MS. DILLON: Yes.

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MR. CALLANAN: On having the invoice put to him.

81 Q. MS. DILLON: Mr. O'Shea, we are looking for the invoice at the moment, when we find it we will show it to you.

Effectively what Mr. Gogarty has accepted is what Mr. Callanan says; if the invoice showed he was at the meeting on the 20th of January of 1988 with Mr. Redmond and Mr. Manahan that that meeting in fact did take place. We just want to put the invoice up on the screen. It is not a matter, it is just as a matter of record, Mr. O'Shea?

A. I am with you. I am with you. You are doing your job.

82 Q. Now, if you see the second date there, the 20th of the 1st, '88?

A. 20th of the 1st, '88. Attendance.

83 Q. At the planning office with Mr. Gogarty and Mr. George Redmond?

A. Mr. George Redmond.

84 Q. That is an invoice by Mr. Manahan, whom I think was known to you as an architect?

A. That's right, yes.

85 Q. All right. Now, the diary also on the 20th of January shows a meeting in the name of Mr. George, of Mr. James Gogarty, it shows a meeting for James Gogarty?

A. Is that right?

86 Q. And that meeting, presumably, is the meeting that is reflected in the invoice?

A. Is that so?

87 Q. The meeting between Mr. Redmond, Mr. Manahan and Mr. Gogarty?

A. I see. I am with you, yes.

88 Q. Now, you have told us that you were asked by Mr. Gogarty to bring him in to meet George Redmond?

A. That's right, yeah.

89 Q. And you have told us that you brought, you rang up Mr.

Redmond and you made an appointment?

A. I did but I don't know what date it was.

90 Q. But I think we have to --

A. Go ahead.

91 Q. Pay some attention to this, Mr. O'Shea. Because this is, I think, quite important?

A. Yeah.

92 Q. You did not have any discussions, you have told us, with Mr. Gogarty about the four acres in Poppintree at least until subsequent to the 17th of November of 1988?

A. Is that right, yeah.

93 Q. You told us that because you were dealing with the Corporation and trying to sell it for £80,000?

A. Yes.

94 Q. On some date subsequent to the 17th of November, you were told the Corporation were not buying the lands?

A. Yes, I was, yes.

95 Q. And --

A. I don't know when I was told, but I was told anyway.

96 Q. And at some date, which you are not aware of, subsequent to that, you went to Mr. Gogarty to see if he would be interested in buying the lands?

A. Yes.

97 Q. And you have told us that you had a number of meetings with Mr. Gogarty?

A. I had, yes.

98 Q. And you described, yes, that you were hopping a ball for Mr. Gogarty and telling him that the itinerants would be moving in if they didn't buy it?

A. I probably was, yeah.

99 Q. And you told us today that you had a number of, fair few meetings, I think you said, with Mr. Gogarty?

A. I had a number of what?

100 Q. Meetings with Mr. Gogarty, about buying these four acres?

A. Well, I had two or three, I suppose, anyway. That would be the most, I would say.

101 Q. You told us that there was a delay because Mr. Gogarty was getting instructions from Mr. Conroy?

A. I didn't hear anything about that.

102 Q. I think if we read back, you told me earlier this morning that Mr. Gogarty had to go back to Mr. Conroy and Mr. Conroy was out of the country?

A. That's right, yes. That's right, yes.

103 Q. And then you said; at a later meeting Mr. Gogarty asked you to bring him in to meet Mr. George Redmond in the County Council offices?

A. Yeah, yes. Was it after that?

104 Q. Well, I don't know?

A. It must be. It must be if you say so.

105 Q. Right. Now, it would seem that the earliest you could have started your negotiations with Mr. Gogarty was November, or the end of November of 1987, because you were dealing with the Corporation?

A. I hadn't much dealings with the Corporation. I only went in and they put a price on it, which I thought was very high, and I got notification somewhere; I don't know whether I got notification or I got a phone call, that they weren't interested in the land.

106 Q. Yes.

A. First of all it was too dear.

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MR. HERBERT: I am sorry to interfere, Mr. Chairman. I think in fairness, the witness should be given the letter of the 18th of November, 1989, because it is not a letter

to him, but it is a letter from somebody called Balfe, I think to --

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MS. DILLON: That was put into evidence yesterday.

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CHAIRMAN: To an Alderman.

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MS. DILLON: And given to the witness yesterday.

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CHAIRMAN: And saying that this Mr. Balfe is confirming a particular state of facts to the Alderman. He is not saying anything to this witness. Now, it is a matter for you Sir, to assume what you wish from that letter; but I mean the witness can't be fixed with knowledge of this letter. It wasn't written to him. So I mean to keep using this as a pilot date is incorrect and misleading.

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MS. DILLON: The letter in question was put to the witness yesterday.

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CHAIRMAN: Please gentlemen.

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MS. DILLON: The witness accepted yesterday that the letter indicated that at that time there were ongoing negotiations for the acquisition of the lands by O'Shea and Shanahan, and the witness accepted yesterday that sometime subsequent to the date of that letter, which is the 18th of November, 1987 that he was told by somebody, either by letter or phone call, from the Corporation that the deal was not going on.

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MR. HERBERT: I accept he was told that the deal was not

going on. I don't accept that he could say what was happening in the minds of either Mr. Balfe or Alderman Tunney, TD.

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MS. DILLON: The witness accepted yesterday that the letter indicated that the negotiations between Dublin Corporation and O'Shea and Shanahan Limited in relation to the acquisition of the lands were ongoing as of mid November of 1987.

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MR. HERBERT: Insofar as that was what a gentleman or lady called Balfe was telling Mr. Tunney. That could have been lies, it could have been a mistake, it could have been the truth. I don't know. But this witness was not a participant in that conversation.

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CHAIRMAN: Let's be realistic about this. Here is a letter from the Corporation; isn't that right? Yes, Capel Buildings. Saying that there are negotiations in progress. Now, it is reasonable to assume that this witness would not go to another potential purchaser until those had fructified, one way or another, either to acceptance or to rejection; isn't that so?

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MR. HERBERT: I accept that, Sir.

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CHAIRMAN: Now, we are going forward and he doesn't know when he heard it wasn't going on.

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MR. HERBERT: Yes, he says that sometime he was told --

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CHAIRMAN: He can't remember it and that is perfectly

acceptable. And there is - we know that it must, therefore, be subsequent to the 18th of November that that happened. Now, the next thing, there is apparently a meeting between Mr. Gogarty and Mr. Manahan, Mr. Conroy - was Mr. Conroy there? With Mr. Redmond on a particular date. It would suggest that that may be related to the acquisition of the lands, sorry to the --

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MS. DILLON: That was Forest Road, I think, Sir.

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CHAIRMAN: That was Forest Road. That if, sorry, that obviously Mr. Redmond and Mr. Gogarty had then become acquainted. That is the point.

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MR. HERBERT: Yes.

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CHAIRMAN: So it is in between the two dates that Mr. Manahan, Mr. Redmond sorry - this witness, Mr. O'Shea, introduces Mr. Redmond to Mr. Gogarty. It has to be.

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MR. HERBERT: Yes.

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CHAIRMAN: I think that is as close as you are going to get.

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MR. HERBERT: We know for certain, Sir, that the McArdle documents, that when the negotiation to sell this Poppintree land took place, we know when the caretaker was to go and we know when the contract was closed; so why not put that to this witness and he then may refer to all of that, he is certainly not going to remember it from Mr. Redmond's diary.

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MS. DILLON: We are coming on to deal with that in sequence. It would appear to be the position, because Mr. Gogarty has an appointment on the 15th of January of 1988 with Mr. Redmond and certainly appears to have an appointment on the 20th of January of 1988; and in November of 1987 O'Shea Shanahan were negotiating with the Corporation about the acquisition of the four acres, that the window of time within which this introduction could have been affected is very narrow. And it is that I am trying to deal with at the moment; to see can we, using these documents, narrow down in some time frame when this introduction is supposed to have taken place.

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MR. HERBERT: Well, I mean, Mr. Chairman, why not put DMA/2/234 which gives us another date of the 17th of the 3rd, 1989. This is a document which My Friend has offered to me.

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MS. DILLON: I don't want to keep interrupting. I will deal with this in my own way.

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CHAIRMAN: Let's proceed.

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MS. DILLON: Mr. Herbert can clear up any confusion which he thinks I have caused when he comes to deal with the witness.

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CHAIRMAN: Okay. Let's proceed.

107 Q. MS. DILLON: Now Mr. O'Shea, if we can get back to the matters in hand?

A. Yeah.

108 Q. I think you agreed with me, that somewhere towards mid to end of November of 1987 you were still dealing with Dublin Corporation about selling the lands?

A. I was still dealing, I probably was. But I mean I would have been delighted to sell it to the Corporation if they came along and gave me £80,000 for it. I tell you what, I would give it to anyone.

109 Q. When you were told by the, I have no doubt when you were told by the Corporation that they weren't going to buy the lands for 80,000 as you had thought they were going to?

A. Yes. Yes.

110 Q. You went to Mr. James Gogarty?

A. Yes, because I was finished with the Corporation.

111 Q. You said that you thought that the negotiations with James Gogarty lasted over a two month period?

A. I don't know how long it lasted. God, it is a long time ago. I don't know how long. I couldn't put two months on it all right. I think it was a quite a while anyway.

112 Q. You thought that the negotiations took a long time?

A. They took a while, yes, yes.

113 Q. And in the course of those negotiations, at one meeting Mr. Gogarty asked you to bring him in to meet Mr. George Redmond?

A. That's right, yes.

114 Q. Right; and we know from the diaries and Mr. Gogarty accepts that he must have been at a meeting on the 20th of January, 1988?

A. Yeah.

115 Q. Right. So if you introduced Mr. Gogarty to Mr. Redmond it had to be before the 15th of January of 1988 and after the date that you found out the Corporation were not going to buy your land; is that right?

A. That's right. Yes.

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MR. HERBERT: Again Mr. Chairman?

A. If I was negotiating with the Corporation I would be delighted to sell them to them.

116 Q. Would you have concluded that deal to the Corporation for £80,000?

A. I would of course.

117 Q. If something hadn't happened --

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MR. HERBERT: Mr. Chairman, can I sound a note of warning here? I know it is something that you will have in mind when you come to deal with this, but I would like to put it on the record. My Friend is embarking on these questions which may be perfectly legitimate questions, but they are on the premise that the diaries of Mr. George Redmond are complete, are accurate, and that every meeting he had with anybody is contained in it. There is the possibility that there could have been meetings that aren't recorded in this diary.

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CHAIRMAN: Mr. Herbert --

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MR. HERBERT: But she seems to be proceeding on the premises that they are wholly written --

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CHAIRMAN: Mr. Herbert, would you let's get down to reality here? Isn't the, isn't there no point in - sorry, put it the other way around; Mr. Gogarty would not be looking for an introduction to Mr. Redmond if he had sat down with two or three other people on the, was it the 20th of January of 1988?

.  
MS. DILLON: '88.

.  
CHAIRMAN: He wouldn't be looking for an introduction because he would have met him once and that would be enough for him to pick up the phone and say "Mr. Redmond? Mr. Redmond, could I see you again on some other day" he wouldn't be a stranger.

.  
MR. HERBERT: Of course.

.  
CHAIRMAN: He wouldn't be a stranger. So the reality of the situation is this; that for what it is worth, and to the quality of evidence that may or may not be great, the probabilities are that some time subsequent to the 18th of November --

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MR. HERBERT: Yes, sir.

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CHAIRMAN: And prior to the 20th of January.

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MR. HERBERT: Well yes, the 19th.

.  
CHAIRMAN: The initial introduction which this good gentleman affected, or was asked to affect, took place.

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MR. HERBERT: Yes, sir.

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CHAIRMAN: Isn't that the reality of life?

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MR. HERBERT: I am totally in agreement with that, Sir.

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CHAIRMAN: From there on now, what value that has in terms of evidential, I am not in anyway giving --

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MR. HERBERT: Correct. I totally agree with that statement except that is Tuesday the 19th.

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CHAIRMAN: It is between a date late in November and a date in mid to late January.

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MR. HERBERT: Yes.

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CHAIRMAN: Sometime between the two. This introduction probably, as a matter of probability took place.

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MR. HERBERT: Yes, sir.

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CHAIRMAN: Does that clear it up Ms. Dillon or have I made the position more muddy?

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MS. DILLON: I will just finish off the matter with the witness. You have cleared it up.

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CHAIRMAN: Right.

118 Q. MS. DILLON: Can you suggest to you, Mr. O'Shea, exactly as the Chairman was saying, that if you introduced Mr. Gogarty to Mr. Redmond it could only have happened after you knew the Corporation were not going to buy the land?

A. Oh, yes, quite right, yes, if I had any negotiations, I certainly would have sold it to the Corporation.

119 Q. And it appears --

A. Why shouldn't I?

120 Q. It appears to be the position that certainly by the middle

of January of 1988 Mr. Gogarty had met Mr. Redmond?

A. I don't know when it was.

121 Q. So do you recollect sometime towards the very end of 1987, sometime in December or very early in January of '88, sorry, it would have been 1987, introducing Mr. Gogarty to Mr. Redmond?

A. I don't know, I introduced Mr. Gogarty to Mr. Redmond, but I don't know, I haven't a clue what date it was or what it wasn't.

122 Q. But what I am suggesting to you Mr. Redmond, Mr. Gogarty, I beg your pardon, Mr. O'Shea; what I am suggesting to you is that from Mr. Redmond's diary it is clear that Mr. Gogarty had met Mr. Redmond by the 20th of January, and probably by the 15th of January?

A. Is that right?

123 Q. That appears to be the position?

A. That is news to me, because he told me he never, he never met him.

124 Q. Did he tell you that in 1988?

A. No. No, he no he didn't tell me. He never said when I introduced him to Mr. Redmond, I never had any discussions with Gogarty after that, I think, as far as I can remember.

125 Q. The instructions to sell - sorry to buy your four acres at Poppintree were given to Mr. Denis McArdle on the 10th of November, 1988?

A. Yes.

126 Q. And there is a document that I will deal with in a minute that deals with those instructions. Now, this appears to be the first time the solicitor was instructed to start preparing documents in relation to the sale of the four acres to Grafton?

A. Is that so?

127 Q. It would appear that your negotiations with Mr. Gogarty had concluded by the end, by November of 1988?

A. If it says that.

128 Q. Is it your recollection, therefore, that you were negotiating with Mr. Gogarty for a year?

A. Oh God.

129 Q. For 10 months?

A. Oh God, I couldn't, I can't remember, I didn't think it was - of course time slips when a man is old. By God the months get very short.

130 Q. That may --

A. The Christmases come around very quick.

131 Q. Yes. I have no doubt about all of that Mr. O'Shea. But when we had been talking earlier about the negotiations with Mr. Gogarty and I had asked you how long you felt they took, you had initially said it was a couple of months. You felt it was a long time?

A. I suppose.

132 Q. You spoke about that. You mentioned a period of two months that you were negotiating with Mr. Gogarty?

A. Is that right?

133 Q. Before you did a deal. Is it your recollection that you were negotiating with Mr. James Gogarty for a period of two months before you struck a deal with Mr. Gogarty?

A. It was a while all right. It was a while because I know he was running back and forth to Conroy. Conroy was his boss, but I don't know, I wouldn't have a clue how long it was now.

134 Q. Well, could it have been as long?

A. I don't care what way you put it, but I can't remember it. That's all.

135 Q. May we take it that your negotiations could; could your negotiations have been as long as six months?

A. I told you I don't remember what how long it was.

136 Q. But you ultimately agreed a price of £65,000?

A. Yes, we did. Yes, when I was finished with the Corporation.

137 Q. Yes, right. And do you recollect the negotiations with Mr. Gogarty lasting over a 12 month period, being as long as that and as protracted as that?

A. I didn't think it was as long as 12 months. I wouldn't think it was like that, like that again I don't know.

138 Q. And you were anxious to do this deal, weren't you?

A. I was, yes, because the Corporation was finished with it.

139 Q. The Corporation were out of the question. They offered you 80,000. Something had happened, you hadn't got your money; isn't that right?

A. Well, it was blown out anyway.

140 Q. And your company went into liquidation in September of 1988, voluntary liquidation; isn't that right?

A. Yes, that's right, that's right.

141 Q. And you were anxious to dispose of this land?

A. Oh I was, yes, yes, because the itinerants, the people in the caravans, what do you call them? They were anxious to get into it, yes.

142 Q. You were actively pursuing Mr. Gogarty as the most likely purchaser?

A. Yes, I was, yes.

143 Q. And you were keeping in regular contact with Mr. Gogarty to see how progress was being made?

A. Quite possibly, yes.

144 Q. And you were pushing for a deal?

A. I was very anxious to get rid of it because I had a lot of

damage done to it.

145 Q. Yes, at that stage it was only a millstone around your neck?

A. Oh, that was all.

146 Q. And you were anxious to get shut of it completely and let it be somebody else's problem?

A. Get it out of the way. It was tormenting me.

147 Q. You were pushing Mr. Gogarty?

A. I probably was.

148 Q. I think from other evidence that we have heard, Mr. Liam Conroy was gone by the middle of 1988?

A. Is that so?

149 Q. Out of the Murphy Group of companies?

A. Is that so? I didn't know.

150 Q. You weren't aware of that?

A. I didn't know that.

151 Q. What I am suggesting on the scenario that we have just been talking about, if the instructions or the deal was struck by the 10th of, the 10th of November of 1989, that your negotiations with Mr. Gogarty in 1988; if the instructions were given to the solicitor on the 10th of November, 1988, that a price had been agreed at £65,000?

A. That is, as far as I remember, yes, that's right. It must be right if it was in Liam Conroy's solicitor's office.

152 Q. Yes, that was in Mr. Denis McArdle's office?

A. Yes, that's right.

153 Q. And that was the conclusion of your negotiations with Mr. Gogarty

A. It was, yes.

154 Q. And they had taken place in the months preceding that deal?

A. What had taken place, you say?

155 Q. Your negotiations with Mr. Gogarty had taken place leading

up to November of '88?

A. It would have been, yes.

156 Q. Right. Now, what I want you to try and help me with, for how many months in 1988 were you negotiating with Mr. Gogarty?

A. God, I don't know. I wouldn't have a clue.

157 Q. Do you think those negotiations went back as far as 1987?

A. I couldn't tell you. Don't mention dates to me at all because they mean nothing to me.

158 Q. All right. Do you think you spent 12 months negotiating with Mr. Gogarty?

A. I wouldn't think I did some how.

159 Q. All right.

A. I don't think so.

160 Q. Sorry, Sir.

A. I wouldn't know, to be honest with you.

161 Q. I want to bring up, to deal now with the documents in relation to November of 1988, when certain instructions were given, but before that, Mr. O'Shea, I want to ask you, you went in to a meeting in Denis McArdle's office; is that correct?

A. I did not.

162 Q. Well, I think --

A. What meeting was it?

163 Q. It was in November, 1988, about selling the four acres at Poppintree to Grafton Construction.

A. I can't remember going in there now.

164 Q. All right.

A. But I was in Denis McArdle's office previous, early on, on quite a few occasions. I found him to be a decent, honest man to deal with.

165 Q. There is a document DMA 3.245. DM 3.245

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MR. CREEGAN: I wonder, I am sorry for interrupting My  
Friend, I wonder if Mr. O'Shea could be given a break at  
this moment in time?

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CHAIRMAN: I was just thinking about that, I was just  
looking at my watch also.

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MR. CREEGAN: There is also a couple of matters I need to  
clarify.

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CHAIRMAN: Say five or ten past 12? We will rise for a  
quarter of an hour.

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THE HEARING WAS THEN ADJOURNED FOR A SHORT RECESS AND  
RESUMED AGAIN AS FOLLOWS:

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MS. DILLON: It appears Sir, that we have been in contact  
with Dublin Corporation for some considerable period of  
time about this particular file, about the acquisition of  
the four acres at Poppintree by Dublin Corporation from  
O'Shea Shanahan Limited. I am happy to tell you that they  
have located the file. We expect it to be avail at  
lunchtime. We can photocopy it and circulate it to  
everybody affected. I hope to conclude before lunch, if  
any matter were to arise as a result of that file, I can  
revisit that in re-examination and try and get through the  
rest of the material before lunch if that is possible. I  
think My Friends were happy enough that I would deal with  
it in that manner to try and conclude matters right.

.  
CHAIRMAN: I gather you have been advised of the

contents?

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MR. HERBERT: Insofar as My Friend knows them.

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CHAIRMAN: Insofar as we know them at the moment. We know them only as an indication of what is contained. It largely clarifies the problem. We will see what was - you are in agreement in principle with the procedure --

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MR. HERBERT: Provided that I can reserve my position on the file.

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CHAIRMAN: Yes certainly, nobody is going to exclude you in anyway. Right, carry on.

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MS. DILLON: Mr. Callanan, I think, likewise.

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MR. CALLANAN: Yes.

166 Q. MS. DILLON: Mr. O'Shea, just before the break I was going to put to you a document dated the 10th of November, of 1988.

A. Yes.

167 Q. The 10th of November, 1988. It is behind Tab 8. It is DMA 3.246 and 245 are the two documents. 246 and 245. And this appears to be the first occasion on which Mr. Gogarty gave instructions to Mr. McArdle about the sale of the four acres at Poppintree?

A. Yes. Yes.

168 Q. And that was the 10th of November, 1988?

A. Is that right?

169 Q. Yes. Do you recollect at all, Mr. O'Shea, going in with Mr. Gogarty to meet Mr. McArdle?

A. No, I don't.

170 Q. Do you recollect going to anybody's office to have a discussion about the four acres at Poppintree?

A. No, I had not, no.

171 Q. The first document?

A. I expect our solicitors were informed, we informed our solicitors about it and they in turn got in touch, in contact with McArdle.

172 Q. Yes. Is it possible that that meeting may have taken place in the offices of Paul Wyse the liquidator of your company?

A. I don't - Paul Wyse? We had several meetings with Paul Wyse, but I don't think, I don't think the four acres in Poppintree was brought up. I can't remember now anyway.

173 Q. All right. But you remember that in or around November of 1988 you agreed a price with Mr. James Gogarty of £65,000?

A. Correct, I did, yes.

174 Q. And is it possible that you might have attended a meeting in or around that time and that you have forgotten about the meeting?

A. If I had a meeting with Mr. Gogarty about it I wouldn't forget it at all.

175 Q. Is it possible that you went to a meeting with Mr. McArdle and that you have forgotten about it?

A. I didn't go to McArdle's office concerning Poppintree.

176 Q. No. I am not suggesting you that you went to Mr. McArdle's office. I am asking is it possible that you met Mr. McArdle somewhere with Mr. Gogarty about the sale in Poppintree?

A. No, never. McArdle wouldn't do business in the pub at all.

177 Q. Tab 8. Now, you see Mr. O'Shea, I have to suggest to you that such a meeting did take place and that you were at the

meeting?

A. At what meeting was this?

178 Q. A meeting in November of 1988 about the sale of Poppintree lands?

A. Is that right?

179 Q. And in relation to that I want to show you a letter that is at Tab 8. It is JMSE 19.4122 and this is a letter from Mr. Denis McArdle solicitor, to Mr. Roger Copsey.

A. Roger Copsey, yeah.

180 Q. (Document handed to witness) And the letter says it is dated the 18th of August of 1989.

A. Yes.

181 Q. And it says "re the Grafton Construction Company Limited, purchase of lands at Poppintree from O'Shea and Shanahan Limited.

Dear Roger,

I refer to our telephone conversation herein. When the above purchase was negotiated in the month of November last, it was agreed at the meeting attended by Bat O'Shea, his solicitor, Jim Gogarty and myself, that the transaction would resolve all matters of a financial nature or otherwise between Mr. O'Shea and Mr. Murphy and their respective companies".

Do you see that Mr. O'Shea?

A. I do, yes.

182 Q. Now that letter appears to suggest that there was a meeting in November of 1988 that was attended by you, your solicitor, Mr. James Gogarty, and Mr. Denis McArdle?

A. Oh, that must have happened all right, so.

183 Q. So do you accept now that you did attend such a meeting?

A. When I see it in black and white --

184 Q. You accept it?

A. Yes.

185 Q. So that happened in November '88?

A. '88. Is that right?

186 Q. I want to show you document DMA 3.2245 which is at Tab 8.

This is the document we have just circulated I think.

(Document handed to witness) And this is an attendance note

headed up "John Shields, Gerry O'Shea". I think Mr. O'Shea

was your solicitors. Do you know who Mr. Shields was?

A. Yes, he was Gerard's boss.

187 Q. He was a solicitor?

A. He was a solicitor, yes.

188 Q. Paul Wyse I think was the liquidator of O'Shea and

Shanahan?

A. That could be right, yes.

189 Q. From Freaney's?

A. Yes, that's right.

190 Q. D.McA I think is Denis McArdle?

A. Oh, I expect so. I can't remember Denis being there at  
all.

191 Q. Being there?

A. I can't.

192 Q. Jim Gogarty?

A. Oh, yes, he was there all right.

193 Q. And Bat O'Shea?

A. That would be right, yes.

194 Q. So you were at the meeting?

A. I was at that meeting, yes, I remember that meeting now,  
yes.

195 Q. You remember the meeting?

A. I do, yes, when I see it in black-and-white, yes.

196 Q. And that sets out that £65,000 was agreed?

A. Yes.

197 Q. And that was the price that you ultimately got wasn't it for the four acres?

A. Correct, yes.

198 Q. "Vacant possession of the entire. Caretaker will go" and then it goes on to deal with planning documents, closing dates, inventory, phone and ESB will be cutoff, ground rents? "Doesn't know position of ... to no position" (quoted). Then beneath that it says "this resolves all matters between the parties"?

A. Is that so?

199 Q. Yes. That seems to suggest that this sale of the lands in Poppintree was the final matter to be dealt with between yourself and the Murphy companies?

A. Is that right?

200 Q. I am asking you, Mr. O'Shea?

A. I can't remember that at all, no.

201 Q. But you do remember the meeting?

A. I do, yes, but I can't remember that.

202 Q. You can't remember that?

A. No.

203 Q. All right. Now, the next document I want to put to you is DMA 3.2246 and it is at Tab 8 and this is an attendance on Mr. James Gogarty by Mr. Denis McArdle. All right? So this was a meeting I suggest to you, at which you were probably not present but it was probably a meeting between Mr. Gogarty and Mr. McArdle where Mr. McArdle was taking instructions in relation to the sale of the lands at Poppintree?

A. Yes.

204 Q. It says "contract price £45,000. 10% deposit balance on completion.

Number 4 - 20,000 O'Shea for services". Do you remember

negotiating with Mr. Gogarty that the sale price might be 45,000 and you would get £20,000 for services?

A. There was no such talk, no such thing.

205 Q. There was no such talk?

A. No such talk at all, whatsoever. I wanted £65,000 into my hand and that was that.

206 Q. And that was what you got?

A. And that is what we got and we never spoke about anything else.

207 Q. So it goes on to deal with matters such as vacant possession of the property and to get a copy of the caretakers agreement from Gerrard Duffan. I think Mr. Duffan was a caretaker living on the premises?

A. That's right.

208 Q. I think subsequently there were difficulties, you weren't able to get him out?

A. Well, we finished up in court.

209 Q. Yes, and I think --

A. We got him out then.

210 Q. Right.

A. It cost me £5,000.

211 Q. And it goes on to deal with various other matters such as the inventory of fixtures and fittings, what is being left and what is being taken, and number 8: "Planning documents and decisions.  
9. Correspondence with the Corporation re acquiring it as a tinkers site".  
10. Closing date as long as possible.  
11 and 12 deal with the ESB and the ground rent position.  
13 is indecipherable. We are not able to read what was on 13. But that seems to suggest that these were all matters that were being sorted out in relation to the sale of the

lands at Poppintree to Grafton?

A. Yeah, it must be, I suppose.

212 Q. Doesn't that seem to be what it is?

A. Yes.

213 Q. Now, that meeting took place, both of those meetings took place on the 10th of November 1989?

A. '89.

214 Q. '88?

A. '88.

215 Q. I beg your pardon '88 and the next document I want to show you Mr. O'Shea, is a cheque stub, and it is JMSE 10.319, Tab 8.

(Document handed to witness) This cheque stub is dated, Mr. O'Shea, the previous day. It is dated the 9th of November, 1988. And it says "O'Shea and Shanahan, re four acres purchase at Poppintree"?

A. There is nothing here only a black, I can't see nothing, there is only just the --

216 Q. It is only the cheque stub?

A. Is that what it is?

217 Q. Mr. O'Shea, not the cheque itself?

A. Oh, I see.

218 Q. It is on the screen beside you. And it says "9th of November 1988"?

A. I see it, yes.

219 Q. "O'Shea and Shanahan, re four acres purchase at Poppintree"?

A. Yes.

220 Q. That was a cheque, Mr. O'Shea, that was drawn on the account of Grafton Construction?

A. Yeah.

221 Q. And I can tell you Mr. O'Shea, and I don't think there is any difficulty about this, that that cheque has never been

lodged or cashed. It has never found its way into the system at all, it has never been cashed; but what I want to ask you is do you recollect being given a cheque by Mr. Gogarty or Mr. Reynolds or anybody else?

A. No, any cheques were exchanged was between our solicitors.

222 Q. They were exchanged between solicitors?

A. Oh, yes.

223 Q. Do you have any knowledge as to why there would be a cheque stub dated the 9th of November 1988?

A. I haven't a clue. I don't know what caper he was up to. I don't know what it was.

224 Q. Did you get a cheque from Mr. Gogarty that was never cashed?

A. I never got a cheque from Mr. Gogarty. It was, any cheque that was done, it was done through, it was through the solicitors, the solicitors collected it and that was that.

225 Q. I am not suggesting, Mr. O'Shea, that this cheque was ever cashed. In fact we know the cheque was never cashed?

A. Is that right?

226 Q. It was never cashed. What I am asking you is, in or around the 9th of November, which is the day before the meeting in the solicitors office?

A. Yeah.

227 Q. Did you get a cheque from Mr. Gogarty?

A. I did not.

228 Q. Right.

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MR. CREEGAN: I think that question has already been answered twice by this witness.

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MS. DILLON: I am happy to leave it.

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CHAIRMAN: There is no, I know it has been answered twice. There is no evidence that that cheque might have not have been written for a variety of reasons. It doesn't necessarily mean it was ever a cheque that went into circulation. I certainly will, I don't think the matter should be proceeded with on foot of that cheque. Because there is just no basis. It is speculation in its most extreme form.

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MR. CREEGAN: Can I just mention also at this time, Chairman, I understand that My Friend intends to put various issues in relation to the statement of Mr. Denis McArdle to this witness. And I have no objection to that in general, however, I do have an objection to a certain part of the statement being put to this witness. And that relates to Appendix B.

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Appendix B is - Appendix B purports to be a typewritten note of an instruction given by Mr. Gogarty to Mr. McArdle in 1992, and I certainly would object, and I wish to signal it at this stage, that that particular issue should not or the issues raised in that Appendix should not be put to this witness for a variety of reasons.

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And in particular perhaps I should just outline the very first paragraph, Chairman, it is the paragraph that I will be concerned about and I wish to object to it being raised in any form for the following reasons; first of all this statement by Mr. McArdle is not a sworn statement. It is not in affidavit form and Mr. McArdle, as I understand it, has not yet given evidence and, hadn't given sworn evidence to this Tribunal. Secondly, I am not sure that Mr. Gogarty

himself has given sworn evidence in relation to this point. And thirdly, I am not sure --

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MS. DILLON: Sorry to interrupt, just for ease of reference. We are dealing with the first document at Tab 8. The typed written statement headed "B, to the statement of Denis McArdle".

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MR. HERBERT: Thank you.

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MR. CREGAN: The other issue, Chairman, is that I am not sure that it relates, in any event, to the sale of lands at Poppintree because it talks about 135,000 to include plant and equipment. Mr. O'Shea's evidence yesterday was that all the plant and equipment had been sold, I think sometime in the mid 80s to somebody from Northern Ireland. So, therefore there is no suggestion that that paragraph in fact relates to the sale of the four acres at Poppintree.

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So I wouldn't like my colleague, Ms. Dillon, to raise this issue in any respect.

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CHAIRMAN: Just allow me read the document.

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MR. HERBERT: Sir, is this a document headed "consultations with G Brady"?

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CHAIRMAN: It is headed "Appendix B" it is annexed to Denis McArdle's statement or what was intended to be his statement of evidence.

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MR. HERBERT: I have it now, Sir. Miss Dillon has shown

it to me.

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CHAIRMAN: Yes, I have it now. That is what it is. Just give me a moment to read this, because we want to tie it into Mr. McArdle's statement, as such.

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MS. DILLON: The relevant paragraph in the statement is paragraph 76.

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MR. CREEGAN: Chairman, could I also make the point in relation to this; this document came into existence some four years after the event. It is dated the 13th of October in 1992. The previous documents which Ms. Dillon has put to Mr. O'Shea all relate to November of 1988, almost exactly four years previously.

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CHAIRMAN: It appears to me not to relate, sorry it appears to me to be a memorandum which cannot be directly related to this witness. It appears to me to be a memorandum which deals with a great number of other things, and the initial three lines do not necessarily; certainly I can't see any necessary connection with this witness and the current, the one we are discussing at the moment.

.

In the light of the fact that Mr. McArdle is dead, and therefore what he understood when he wrote this cannot be clarified, I think it would be utterly wrong and prejudicial to everybody, not just to this witness, but to everybody, because it would leave open a variety of speculation which is quite unwarranted, without evidence to support it from some other source, and certainly we don't have Mr. McArdle. It isn't dealt with in his statement.

It is just annexed and I would be wholly against this being introduced in evidence. And in fact, I am going to rule it out in its entirety.

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MR. CREEGAN: I am obliged, Chairman.

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CHAIRMAN: I think that is the fairest thing to do in these circumstances because one can't have uncertainty where a man is dead, who actually created the document. And I wouldn't allow that to happen because we might do him an injustice as much as anybody else. That is the situation in relation to that.

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229 Q. MS. DILLON: May it please you Sir.

I think ultimately, Mr. O'Shea, that the contract was signed on the 29th, the 20th of April of 1989 and for the sale of the lands at £65,000?

A. Is that right?

230 Q. And the relevant document is JMSE 1.931 and that's a copy of the contract for sale which can also be found behind Tab 9 in the book?

A. Yeah.

231 Q. And I think that contract was signed on behalf of O'Shea and Shanahan by Mr. Paul Wyse?

A. Oh, I see, that's right.

232 Q. The liquidator of your company?

A. Oh, yes.

233 Q. And by Mr. Denis McArdle, in trust for Grafton Construction?

A. Yes, that would be it. Yes, oh that's correct, yes. The 20th of the 10th, yes.

234 Q. I think subsequently some difficulties arose with Mr.

Gerald Duffan, who was the caretaker?

A. That's right, yes. Well, I will tell you the history of that now; Duffan was there with us for quite a while and when Gogarty bought it he wanted Duffan to be taken out of the house so that when he took over the property was his, that kind of stuff, and he would come in then to mind it and Duffan wouldn't do that.

235 Q. Yes, but I think, Mr. O'Shea, we have seen in the documents we have looked at about the agreement in November of 1988, and also it was a condition in the contract that O'Shea and Shanahan would give vacant possession. You had to hand it over with or without the caretaker?

A. Without the caretaker? Well, I think verbally, Gogarty, I mean he knew that if the caretaker was out of that for 24 hours, well I mean it mightn't last for 24 hours. The place would be rifled asunder. There was nothing to be pinched but they would break every goddamn thing that was there.

236 Q. I think it was a term of the contract, you had to give vacant possession. I think your solicitors subsequently took proceedings against Mr. Duffan to get him out of the premises; isn't that right?

A. That's right.

237 Q. And I think those proceedings were ultimately compromised and a sum of money was paid to Mr. Duffan so that he would leave the premises?

A. Yes, something like that anyway.

238 Q. And I think subsequent to that the sale was closed in September of 1989?

A. Is that right?

239 Q. And the balance of the £65,000 was paid over on the closing of the sale?

A. I see, yeah.

240 Q. Now, in relation to Mr. Duffan, did Mr. Frank Reynolds have any contact with Mr. Duffan at the time that you were trying to get Mr. Duffan out of the premises?

A. I wouldn't think so, no.

241 Q. Did Mr. Gogarty have any contact with Mr. Duffan?

A. He had, yes, Gogarty wanted Duffan to still be a caretaker. I explained to you before, he wanted to get him out.

242 Q. Yes. Would Mr. Duffan have been known to Mr. Reynolds, yes?

A. Yes, he would have known him I would say.

243 Q. Was Mr. Duffan a former employee of O'Shea and Shanahan?

A. He was a truck driver, he drove a truck.

244 Q. Was he driving a truck at the same time that Mr. Reynolds was working for O'Shea and Shanahan?

A. He knew him all right.

245 Q. So Mr. Reynolds would, say, have known Mr. Duffan?

A. He would have, yes, he would.

246 Q. Do you have any recollection of Mr. Reynolds going to meet Mr. Duffan to try and sort out the problem about vacant possession?

A. Not that I know of.

247 Q. Not that you are aware of?

A. No. No. I don't think he did, I would say he didn't, but I can't, I am not aware of it anyway.

248 Q. Can I put to you something, Mr. O'Shea, about the valuation of the four acres at Poppintree?

A. Yeah.

249 Q. You regarded £65,000 as being a reasonable price for the four acres with its industrial use?

A. Yes. Yes.

250 Q. And you were happy with that price?

A. I was quite happy, yes.

251 Q. Mr. Michael Bailey gave evidence to the Tribunal that, on Day 74 that he had to pay £400,000 to buy the four acres at Poppintree?

A. Oh, dear God.

252 Q. In 1989?

A. £400,000.

253 Q. That was Mr. Bailey's calculation of it?

A. It is a pity.

254 Q. That is what Poppintree cost him.

A. It is a pity he didn't give it to me. £400,000.

255 Q. That was Mr. Bailey's, that was Mr. Bailey's evidence?

A. Is that right?

256 Q. That the four acres at Poppintree was worth £400,000 and that is what he in fact paid?

A. About Mr. Bailey is a very cute individual.

257 Q. In your opinion was the value of Poppintree in 1989, £400,000?

A. I would, Jesus, I would say the whole farm in Finglas wasn't worth £400,000, never mind my four acres.

258 Q. Mr. Bailey also told the Tribunal, Mr. Michael Bailey, that in his view the Murphy company had got a bargain at getting the four acres at £65,000, that is your view also?

A. I was quite happy with the £65,000. I was getting so much trouble for it, if there was pressure put on me, I would sell it for less.

259 Q. If there was --

A. I had terrible trouble with that four acres and the caretaker.

260 Q. Would you have a view on the price of £400,000 being the cost of the four acres at Poppintree?

A. That is ridiculous. I can't see it being mentioned as a matter of fact, that anybody would value it at £400,000. Merciful God.

261 Q. I think subsequently you become aware that there were arbitration proceedings between the Murphy companies and Mr. Michael Bailey's companies about Poppintree House?

A. I didn't. I wasn't aware of anything. I never heard a word about it.

262 Q. Mr. Gallagher wants to know why are you laughing about the figure of £400,000, Mr. O'Shea?

A. Because I think it is ridiculous. I mean if any man, if any man saw the place, be Christ, they would give nothing for it.

263 Q. Well --

A. It was only, it was only a dwelling house there. I mean the water was coming in through the roof, but we treated the roof with a tarry substance which was on the market at the time. I can't think of the name, it kept the water out. We fixed the down pipes and that.

264 Q. Mr. Bailey told the Tribunal that he placed such a high value on the property because he wanted to use it as a yard?

A. Oh, I suppose as a yard, yes, Mr. Bailey had no more use, notion of using it as a yard as I had because I tell you, there wasn't a builder in Dublin having their own joinery works, because I will tell you now, McNerney's had a joinery work for their building about 30 years before that and they got rid of it because they could buy joinery cheaper. They could buy joinery cheaper from a factory that was run by a family business and all that kind of stuff, you know? It wasn't a proposition to make joinery on your own and it wasn't a proposition for us either at

the time, but we had pubs and we also had a break in and we had them in there to see after it.

265 Q. Mr. Bailey also told the Tribunal that the four acres at Poppintree were essential to closing the entire deal with the Murphy companies, such was the value he placed on it?

A. Is that right? I don't know what value he --

266 Q. And he said that his value on it was £400,000?

A. £400,000, yeah.

267 Q. Can I ask you did Mr. Michael Bailey ever approach you in, to negotiate or try and buy the land from you?

A. No, he did not. If he did he would get it.

268 Q. Now --

A. He wouldn't, if he wanted to. He wouldn't have had to pay £400,000 for it either.

269 Q. Subsequently, I think you have become aware, Mr. O'Shea, that these lands including your four acres were sold or were agreed to be sold by the Murphy Group by to the Bailey's companies?

A. I wasn't aware of that at all. I never heard that. I never heard that.

270 Q. Do you now know?

A. I now know when you told me.

271 Q. That Bovale --

A. I think I heard it there a short while ago, yes.

272 Q. And there was a fire in Poppintree House?

A. There was never a fire in Poppintree House.

273 Q. If you just wait a second Mr. O'Shea. After you had sold the land and after you had closed the sale, there was a fire in Poppintree House?

A. I didn't hear of it.

274 Q. Yes. Well, I think you did hear of it because there were arbitration proceedings, Mr. O'Shea, between the Murphys

and the Bailey's?

A. Oh, yes.

275 Q. About Poppintree House being burnt down and the value of Poppintree House and you were asked to be a witness in those arbitration proceedings; isn't at that right?

A. That is right, now? I am clear in that now.

276 Q. Right. All right.

A. Because it was the first time I met the Bailey brothers at the time. They are two decent fellows as I always thought they were, which I told them, and whatever the judge or whatever he was up on the bench, he was asking me questions if, if I was starting building again would I have a joinery works, and how would, how would I partake in it? Well says I "if I started building again" says I "what I would do, I would try to cart the house onto the site and get paid for it" that is the answer I gave as true as I am sitting here, because there was no money in joinery at any time.

277 Q. Right. That arbitration took place on the 19th and 20th of October of 1992, Mr. O'Shea?

A. Yeah. I know I wasn't very long at it because Mr. Wyse was with us and he was costing money, so I gave my, whatever questions I had to answer I answered them and Wyse came in and gave his views on it and we went. We were gone then.

278 Q. Yes, but I think before the arbitration took place, Mr. O'Shea, you had a consultation with Mr. Denis McArdle, Mr. George Brady Senior Counsel, and I think also Mr. Kevin Duffan was present and Mr. Frank Reynolds and you were getting ready for the arbitration?

A. Oh, yes I was, that's right. I met Frank there all right, that's right.

279 Q. And you were being brought in, as I understand it, and you can correct me if I am wrong, to explain to the Arbitrator

the purpose and function of the lands at Poppintree and an argument about the value of the lands at Poppintree; isn't that right?

A. I forget now. That was, I can't, I can't think of that now anyway, that is one thing, although I was at that, I was at that now, but that's, it is not coming to my mind at all.

280 Q. Well, there is a memorandum of the meeting you attended, dated the 17th of August, 1992; the document reference is JMSE 1.210 and the document runs to five pages, so it is 10 to 15. We will get you the document. There is only a small part of the document that refers to you. It is Tab 8 and it is very nearly, it is the second last document on Tab 8.

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CHAIRMAN: The reference is JMSE 11252, is that it?

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MS. DILLON: No, 11210. It is the document immediately proceeding 152. It seems that we have omitted that from the books. So we will photocopy that and we will circulate that document and I just want to take you through that document, Mr. O'Shea, which is the last document that I will be putting to you, you will be happy to know?

A. Thanks be to God.

281 Q. I want to ask you for the comments, for your comments in relation to matters that relate to you in that document.

(Document handed to witness).

A. Yeah. Oh, you are going to --

282 Q. I am going to read the document to you, then I am going to ask you a few questions about it.

A. Well, I know I was a very short time inside in that arbitration.

283 Q. The reference is JMSE?

A. Frank Reynolds was there.

MR. HERBERT: It is the first document at Tab 8.

284 Q. MS. DILLON: We are going to put the document on the screen for everybody else. We will be giving a copy to Mr. O'Shea. (Document handed to witness)?

A. The second portion of it there, I find it hard to read.

285 Q. If I read it, there is nothing on the first?

A. This is like a priest's writing, a doctor's writing, you know.

286 Q. The relevant portion of the document is on page three. It is JMSE 1.12-12.

A. JMSE, yes, that's correct.

287 Q. It is B O'Shea. That is you, isn't it?

A. No, it starts with.

288 Q. This document?

A. A Duffy.

289 Q. This document is an attendance by Mr. McArdle with Mr. George Brady Senior Counsel, Mr. Bat O'Shea, and Mr. F and K Duffy in preparation for the arbitration proceedings with Bovale, and Mr. Frank Reynolds was also present?

A. That's right.

290 Q. The arbitration proceedings were about the valuation of the four acres at Poppintree?

A. Yeah.

291 Q. After they had been burnt down and insofar as the matter relates to you, Mr. O'Shea, I am going to deal with the document that is in front of you headed up "B.O'Shea" all right?

A. Yes.

292 Q. It recounts, this appears to be Mr. McArdle taking a note of what you said at the consultations?

A. Yeah.

293 Q. All right. So he says "between 1983 and 1989 no business dealings with any of the Murphy lands". Okay?

A. Yeah.

294 Q. Do you remember saying that to Mr. McArdle?

A. I can't remember McArdle being there at all.

295 Q. The next line says "built on the south side a long time before" then it says "main yard was at Poppintree"?

A. Yes.

296 Q. Is that correct, were you building on the south side?

A. We did build on it, but Murphy wasn't with us when we were building the south side.

297 Q. I accept that "got burnt out years ago, before in Buckingham Street". Did your premises?

A. That went up on fire, that's right, because all the tenement houses were demolished.

298 Q. Yes?

A. And the Corporation had a very handy way for getting out of it, they knew that the, that the people, you know the young fellows there would tormenting us and we had to pull out of it.

299 Q. The next line says "CPO in Buckingham Street" there was a compulsory purchase in Buckingham Street?

A. There was, yes.

300 Q. It says "shortly after joining Joe Murphy, bought four acres from him" that was saying that you were saying to Mr. McArdle that shortly after you joined Joe Murphy you bought four acres of land from him. We know that is in fact correct, that you bought Poppintree from Joe Murphy; isn't that correct?

A. That's correct, yes.

301 Q. It says "lands in Donabate, director?" That you might have

been a director of a company that owned lands in Donabate?

A. Oh, yes, I was, yes.

302 Q. And then it says "complete split in 1978. No relationships since then". Now do you remember yesterday we were talking about the break up of your relationship with Mr. Murphy?

A. Yeah.

303 Q. We went through the attendances in 1978 where the dealings were being sorted out?

A. Yes.

304 Q. All right. So that seems to relate to that.

A. Yes, I suppose so, yes.

305 Q. It says "applied for planning permission for office and factory" this presumably relates to Poppintree?

A. Oh, yes.

306 Q. "We had a problem with the drainage and it passed by" does that mean you didn't get planning permission?

A. I didn't get it.

307 Q. The first time you applied for it?

A. I didn't get planning permission.

308 Q. "It passed by. Only had four acres. Hoped to go into the Corpo. drain". Does that mean you were hoping to drain into the Corporation drain?

A. Yes, which was a big long distance, it wouldn't be a proposition for us.

309 Q. Then it says "employed engineers and wasn't a proposition"?

A. It wasn't a proposition.

310 Q. "Carried on with our unlawful use". You were using it without planning permission?

A. No, we got some kind of a planning permission for our workshop.

311 Q. Did you ultimately, Mr. O'Shea?

A. Yes, that's right.

312 Q. But you made three unsuccessful applications for planning permission?

A. I did, yes.

313 Q. That is what this appears to be referring to?

A. Yes, that's right, yes.

314 Q. It says "no planning permission when we bought"; is that correct?

A. There was no planning permission, there was nothing in it, yes.

315 Q. It then goes on to say "farm yard which we used commercially"?

A. Yes.

316 Q. And then the next document says "F", next page says "F Reynolds September of 69 to August of 78 the user of the yard was in full swing"?

A. Yes, it could be, yes.

317 Q. Was Frank Reynolds working for O'Shea and Shanahan between September of 69 and August of 78?

A. He was working for us, oh, yes he was while we were working in, yes, we were. He was working with us quite, he was working for us for ten years.

318 Q. And that would appear to be the relevant period?

A. That would be, I suppose.

319 Q. And that appears to be suggesting that Frank Reynolds would know that you had commercial use or that you were using it as a joiners yard?

A. I don't know whether he did or not.

320 Q. All right. Then you go on to say "stopped using it about 1985"?

A. That is when I gave.

321 Q. That was when Mr. Shanahan died?

A. That's right, yeah.

322 Q. "Had stuff stored there at date of liquidation. O'S and S was solvent". That was in fact the position, your company was a solvent company when it went into liquidation?

A. That's right, yes.

323 Q. "Stopped using it when we stopped building because of slump in market"?

A. That's right.

324 Q. "If market had recovered in '88 I still would not have used it. Tom Shanahan died about 1985. His son came in and didn't get on with the foreman"?

A. That's correct, yes.

325 Q. Isn't that all correct?

A. That's correct, yes.

326 Q. So Mr. McArdle's note of this is a correct note of his conversation with you?

A. Yes, that's right.

327 Q. "Would not have considered using Poppintree as a builder's yard even if I could have bought Tom Shanahan's interest out".

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MR. CREEGAN: Sorry to intervene again. I wonder, I haven't seen this document. It is not in my bundle of documents. And I would like to have a look at it just before --

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CHAIRMAN: I tell you what --

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MR. CREEGAN: Before it goes any further.

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CHAIRMAN: We will give you an opportunity to have a good lunch and read it at the same time.

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MR. HERBERT: Mr. Chairman, I am anxious that we have - if these Corporation newly revealed files are to be adumbrated before the Tribunal, that I would certainly welcome a chance to see it before --

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CHAIRMAN: Well, I can't --

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MR. HERBERT: I can't make objections after the event.

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MS. DILLON: We have it. It is being photocopied at the moment. As soon as a copy is available it will be hot footed to Mr. Herbert.

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CHAIRMAN: We won't sit again until you have heard, you have read it. Say a quarter past two, assuming everybody has read their documents by that time. Thank you very much.

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THE HEARING WAS THEN ADJOURNED FOR LUNCH.

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THE HEARING RESUMED AS FOLLOWS AFTER LUNCH:  
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MS. DILLON: Over lunch, Sir, the file, the valuer's file from the Dublin Corporation was obtained. And the relevant section of it was circulated. I propose to finish with this witness the document we opened before lunch.

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CHAIRMAN: Just before this, the Registrar is photocopying something else, he will be with us in a moment. He is just there at the photocopying machinery.  
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MS. DILLON: I beg your pardon, Sir.  
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CHAIRPERSON: When you are ready?  
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328 Q. MS. DILLON: Thank you Sir.  
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Mr. O'Shea, do you remember before lunch we were talking about a document where you had been at a meeting in, again I think probably Mr. McArdle's office, where you had met Mr. George Brady, Senior Counsel, and this was in 1992, coming up to the arbitration, do you remember, you told us you gave evidence at the arbitration?

A. That's correct, yes. I am with you now.

329 Q. The document we had been looking at before lunch, I just want to finish that document, is the document JMSE 1.12, 10 to 15. We had looked at the first page of that, insofar as it is relevant to you, which is Page 3 of the document; you had agreed that the matters that are set out there, was in accordance with your recollection of events?

A. I expect so. I expect so anyway.

330 Q. All right. And the next page is JMSE 1.12.14 and it says: "We had not abandoned the use of the builders yard prior to 1989. Wouldn't be a proposition, not productive. Wouldn't regard my successor as entitled to use it. If market had not fallen we would have kept it on. Ideal for storage".

.  
Now, was that your view when you were selling the property in 1989 about the property, about the four acres?

A. Well no. I wanted to get rid of the four acres because it was a nuisance to us, you know?

331 Q. Yes.

A. We had no storage, I didn't mention any storage. We had no storage, we didn't want any storage when we retired from --

332 Q. Yes. You didn't need storage, but somebody else who came into the premises might have been able to use the yard and buildings for storage?

A. I suppose. It would be a very dangerous place to have storage.

333 Q. Right. And then you go on to say, according to the note, that "I never met Michael Bailey"?

A. I never met him until that arbitration.

334 Q. Until the arbitration?

A. That's right, "I was introduced to him by Frank Reynolds".

335 Q. Yes. And you say, the note says, "He would have known what I was using it for, very few builders had joinery works"?

A. Very few, that's right.

336 Q. So that seems to suggest at this meeting you were of the opinion that Michael Bailey would have known what you were using the yard for?

A. He would, yes.

337 Q. Did you know of Michael Bailey in 1989?

A. I knew, I heard of them but I didn't know him.

338 Q. You had never met him?

A. Not until that arbitration.

339 Q. Yes. And at the arbitration you were introduced to Mr. Bailey by Frank Reynolds?

A. Correct.

340 Q. As I understand, at the arbitration you were a witness for the Murphy side?

A. I was, yes.

341 Q. And then the note goes on to say, "Would have known value of the land"?

A. What did you say?

342 Q. The note goes on to say, "Would have known value of the land".

A. I forget that.

343 Q. And that appears to be a reference back to Mr. Bailey?

A. That's right.

344 Q. Because the note reads, "Never met Bailey. He would have known what I was using it for. Very few builders had joinery works. Would have known the value of the land". So I am suggesting to you that that note "would have known the value of the land" was referring back to Michael Bailey?

A. I suppose it was, um hum.

345 Q. "Would have known the value of the land with established business user. Worth to a builder, value 50 to £60,000". Was that your opinion of the value of the land, that it was worth between 50 and £60,000?

A. I don't ever remember mentioning that.

346 Q. But did you sell it for £65,000?

A. I did, yes.

347 Q. Did you regard that as a reasonable price?

A. I was quite happy with that, yes. I would have sold it for less because I was crucified with the damn thing.

348 Q. Then it says "drainage was the problem, including the site"?

A. Yes.

349 Q. I think you had told us there was a difficulty, you had to get engineers and see were you able to drain in the Corporation and that hadn't happened?

A. Yes.

350 Q. "As a residential site its value was £10,000"?

A. I suppose, 10,000, it would be a lot of money for it.

351 Q. Why do you think its value was so low as a residential site?

A. Because it was a dangerous, not a very popular place, top of Poppintree there, you know, there was a lot of goings on there, you know.

352 Q. And then the notes goes on to say, "The sale to Grafton was the industrial user price. The price to Grafton was the market price"?

A. I suppose it was, it was.

353 Q. And was that your --

A. I tried to get as much as I could.

354 Q. Was that your view at this time when you were at this meeting, that the £65,000 was the market price, the industrial user price?

A. I didn't have any views at that time. I forget what views I had on it, honestly.

355 Q. Would you accept that Mr. McArdle would probably only have taken down what you said to him at the meeting?

A. I don't remember Mr. McArdle at that meeting at all.

That's very strange now, and he was quite a nice man, now a decent man. But I can't remember, I couldn't swear to he, that I saw him at the meeting.

356 Q. This was a meeting with a Senior Counsel to discuss the case coming up to the arbitration?

A. That's right.

357 Q. Yes. The note then goes on to say: "House in poor condition, outbuildings in fair condition, portion of roof to be replaced"?

A. Well, it was covered, that's correct.

358 Q. And then it mentioned four names: Duffan, McCann, Conlon and Gaffney?

A. Duffan? McCann?

359 Q. Conlon and Gaffney, were they all caretakers who stayed in the premises?

A. No, only one caretaker there, Duffan. He was the only man that lived there.

360 Q. Well, there is a date beneath McCann, 1975/'76?

A. McCann lived there one time.

361 Q. Conlon was 1969?

A. He was a foreman, that's right.

362 Q. And he stayed there?

A. That's right. That was previous to Duffan coming.

363 Q. Yes, there was a name, Gaffney, 1971 to '72, he stayed there also, did he?

A. He stayed there too.

364 Q. Those four names represent various caretakers who over a period of time stayed in the house in Poppintree?

A. That's right.

365 Q. That's information that you would have been in a position to give Mr. McArdle?

A. Yes, I suppose so, yes.

366 Q. And then the note goes on to say --

A. But I can't think of it. But I expect I gave him that.

367 Q. You would have been the person who would have had that information?

A. That's right, yes.

368 Q. We had, the note goes on to say, "We'd given up using Poppintree as joinery", that's correct, isn't it?

A. That's correct.

369 Q. I think you have told us that already. "No builder would buy it as a joinery, as storage yard. No value. (Pilfering)"?

A. Well, I suppose so, accept there was a big boundary fence put around it, it might be of some use to somebody, you know. If there was a proper fencing there.

370 Q. But I think you have already told us, Mr. O'Shea, in your view you wanted to get rid of Poppintree because it was a millstone around your neck, and security and all that was a problem?

A. That's right.

371 Q. And that was one of the reasons why you had a caretaker in the place?

A. Yes, that's right.

372 Q. All right?

A. But he was there for a few years.

373 Q. "You wouldn't get a builder in Dublin to deal with a joinery worker". Do you remember making a comment like that?

A. Yes, it wasn't a proposition for builders to have a joinery works.

374 Q. "We started as a shop fitter, that's why we needed it". That's a reference to O'Shea & Shanahan who did start out as a shop fitter. "Johnson and McInerney had a shop but

we didn't"?

A. Johnson.

375 Q. "Johnson and McNerney both had a shop", I think it is,  
"but we didn't"?

A. They were shop fitters, they a premises down in Capel Street, we were offered that agencies and we didn't take it, Johnson McNerney, that's right. They had a shop down in Capel Street and they were selling shop fitting stuff.

376 Q. That's information you would have had, because you were in the shop fitting business?

A. Yes, that's right.

377 Q. "A builder would have no interest (Frank Reynolds agrees). Being mass produced now"?

A. What did you say?

378 Q. The notes goes on to say the builder would have no interest, presumably in having a joinery premises?

A. It wouldn't be a proposition for a builder.

379 Q. The notes goes on to say, "(Frank Reynolds agrees). Being mass produced now"?

A. Yes.

380 Q. Do you remember Mr. Reynolds being at that meeting?

A. I do, yes.

381 Q. And do you remember that he agreed with you when you said apparently that no builder would be interested in the place because everything was mass produced now?

A. Because he would know the caper which was going on.

382 Q. So you agree, Mr. O'Shea, with that record by Mr. McArdle, even though you don't recollect him being at the meeting?

A. For the life of me I can't remember him.

383 Q. Is it accurate in relation to matters that you said or would probably have said?

A. Yes it was, yes.

384 Q. The next matter I want to deal with you, Mr. O'Shea, are various entries in the diary of George Redmond relating to yourself?

A. Yeah.

385 Q. And the first entry is the 11th of February, '88?

A. '88?

386 Q. Um hum, that's correct. We are putting it up on the screen.

A. Sure - show me that. (Document handed to witness). Yes, that's right, that's correct. Yes.

387 Q. Do you remember going in to meet Mr. Redmond on that occasion?

A. I don't remember going to see him, I was often in to meet Mr. Redmond when we were playing. If there was a semi-open on in Elmpark I often dropped in or gave him a ring or dropped in to see him, you know? But I can't pick out that date for any particular thing at all.

388 Q. Well, before we go to look at the dates, Mr. O'Shea, you had put your company into liquidation, sorry you put your company into liquidation later on in 1988?

A. That's right.

389 Q. Isn't that correct, Mr. O'Shea, September?

A. I suppose, but I can't think of the date, it must be right when you say it.

390 Q. And you had stopped building, you told us, from 1985 or thereabouts?

A. Yes.

391 Q. After Mr. Shanahan died?

A. Yeah.

392 Q. Now, can you tell me what reason you would have had to go in to see the Assistant City and County Manager in February '88?

A. February of '88, I can't think of any particular thing, I can't think of any particular time I was in to see him.

393 Q. Did you see --

A. He might have, I might have rang him or something all right about golf or something like that, but I can't remember that particular date.

394 Q. Well, I suggest to you, Mr. O'Shea, that if you were ringing Mr. Redmond about a golf appointment you were hardly likely to appear as a 4 o'clock appointment in his diary?

A. I wouldn't, no.

395 Q. So, I don't know anything at all about golf, I am happy to tell you, but I would suggest to you that that is unlikely to be a golf appointment?

A. It is unlikely, that's right.

396 Q. And this is Mr. George Redmond, the Assistant City and County Manager's diary for business?

A. That's right.

397 Q. That's correct. So I suggest to you if your name appears there it is because somebody made an appointment for you to meet Mr. Redmond at 4 o'clock?

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MR. HERBERT: Now, Mr. Chairman, that is a very unfair statement for My Learned Colleague to put to the witness. If you look at the entry immediately above it, please, it is not fair. I don't know whether, the gentleman doesn't appear to have the page of the diary in front of him.

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CHAIRMAN: Neither do I.

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MS. DILLON: Sorry, he does.

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MR. HERBERT: "National Concert Hall".

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CHAIRPERSON: Wait now.

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MR. HARRIS: Mr. Chairman, I just want to say that if it is Mr. Redmond's business diary I appreciate that, where the words "Bat O'Shea" appear in a business diary, they may well mean golf, but Mr. Redmond mightn't write in "golf" into his business diary, but it may well have been a golf appointment, that's all I would say, if it is Mr. Redmond's diary that he used generally.

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CHAIRPERSON: Well now, it wouldn't be beyond the wit of man to make that sort of omission, would it?

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MR. HARRIS: A deliberate omission.

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CHAIRMAN: We will leave it at that. Thank you very much.

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MS. DILLON: I think, first of all in relation to Mr. Herbert's submission, that I am being unfair to the witness, I reject that because I see nothing in the page in front of me that refers to the National Concert Hall.

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MR. HERBERT: On Thursday the 11th of February at 12 o'clock, "Telecom Eireann", something, "National Concert Hall".

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MS. DILLON: Yes, that is at 12 o'clock in relation to, in relation to some entry in the diary in relation to attending a function. I am dealing with an entry at 4

o'clock.

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CHAIRPERSON: Now, I assume that you are going to deal with these for a purpose going through this diary?

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MS. DILLON: Yes, Sir, I think it is incumbent upon me to inquire from this witness why in 1988 he was meeting Mr. Redmond, what business he had with Mr. Redmond?

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CHAIRMAN: Fair enough. That's perfectly reasonable. I will --

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MS. DILLON: That's why I am trying to establish, and not for any other reason.

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CHAIRPERSON: No, no.

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398 Q. MS. DILLON: Now, Mr. O'Shea, on Thursday, February the 11th, 1988, there are three relevant entries in the diary.

You have the diary in front of you?

A. I have, yes.

399 Q. The first says "9:45 Gogarty. Quarter to 10 Gogarty"?

A. There is something wrong there because I was in with George Redmond on one day and one day only. Why - I can't understand how those dates are there. I was one day only.

400 Q. Mr. O'Shea, I am not suggesting that you went in on this day with Mr. James Gogarty. I am asking you to look at the diary and agree or disagree with me that at 9:45 there is an appointment for Gogarty, there was no suggestion you were there?

A. I couldn't tell you, it wasn't me anyway.

401 Q. But at 4 o'clock on the same day there is "Bat O'Shea at 4

o'clock". Now, that suggests that you had an appointment with Mr. George Redmond at 4 o'clock on Thursday the 11th of February of 1988?

A. The 11th of February?

402 Q. Now, do you agree or disagree with that?

A. I disagree with that, I can't understand the goddamn thing.

403 Q. Are you saying that you are absolutely certain you did not have an appointment with Mr. George Redmond at that time?

A. No, I did not, no way.

404 Q. I want to stay on that page please.

A. What?

405 Q. I want to stay on that page for the moment please?

A. Go ahead.

406 Q. I want to take you down to the bottom of the page?

A. Yeah.

407 Q. Now, at the bottom of the page where it says, "For urgent attention", the following words appear "(OSS)", do you see that?

A. Yeah.

408 Q. I suggest to you, Mr. O'Shea, that's a reference to O'Shea and Shanahan?

A. I don't know whether it is or not.

409 Q. I am suggesting to you --

A. Well, you can suggest away.

410 Q. And that 39971, 26th of the 2nd, '71?

A. 26th.

411 Q. 26th of the 2nd, and beneath that the words "Higginbothan and Stafford", do you see that?

A. I do.

412 Q. I think you have already told us that Higginbothan and Stafford were a firm of architects that worked in Dublin?

A. Yes.

413 Q. Yes. And this appears to be some type of a reference, I suggest to you, something to do with Higginbothan and Stafford, a company from whom you used to take sites; isn't that right?

A. Yeah, yeah.

414 Q. And I suggest to you that the OSS is a reference to O'Shea and Shanahan?

A. Yeah, but we had no dealings, the 26th of the 2nd, '71, we had no dealing with Higginbothan and Stafford, I don't think they were even in business at that time.

415 Q. Were you making planning applications for Poppintree in or around 1971?

A. '71, probably did, was, yeah.

416 Q. So it is possible that that might be a reference to a planning application in relation to Poppintree?

A. I don't know why. I never went in to George Redmond.

417 Q. But taking that entry, Mr. O'Shea, with the fact that you appear to have an appointment at 4 o'clock, taken together, I suggest to you it means that you went in to see Mr. Redmond about some matter either to do with your company or to do with Higginbothan and Stafford on that occasion?

A. I never mentioned the word "Higginbothan and Stafford" to George Redmond. Never mentioned the word, however that came in, I don't know.

418 Q. Did you ever mention the words "O'Shea and Shanahan"?

A. Oh I would, yeah, O'Shea & Shanahan, yes. I mentioned my own name, I just said, he would know when I would ring.

419 Q. Did you ever discuss with Mr. Redmond the planning applications you were making in relation to Poppintree?

A. I did not, no.

420 Q. Did you --

A. I didn't --

421 Q. -- ever seek his assistance in relation to those?

A. I didn't know him that well at the time anyway. No I didn't, I never, went in - it was Charlie Wade that was dealing with the planning and that, you know and we got planning permission, some kind of a planning permission for our workshops and that kind of stuff.

422 Q. Yes. I would like the diary moved onto the 31st of March, 1988, please. The diary entry for that.

A. 31st of March?

423 Q. 1988. Before we deal with that, Mr. O'Shea, can I ask you, do you remember in 1988 going in to see Mr. Redmond at all?

A. I don't know what - I don't know what dates. I don't know what dates I went in to see him.

424 Q. I am not asking about dates, I am asking about years, do you remember going in to see Mr. Redmond at all?

A. I often went in to see him, yes.

425 Q. In the offices in the County Council?

A. I would give him a ring before I went in usually.

426 Q. You would tell him you are coming at such a time and in you go to see him?

A. I don't know, I just gave him a ring.

427 Q. And would you follow up the telephone call with an appointment and go in and meet him?

A. I probably would, yes.

428 Q. So was that a regular feature of your relationship with George Redmond?

A. We were good buddies at that time, yeah.

429 Q. You would go in and see him in the County Council?

A. Yeah.

430 Q. This was all happening during business hours, isn't that right or was it?

A. It was business hours, yeah.

431 Q. So what business were you discussing with Mr. Redmond when you went in?

A. I don't know, I couldn't tell you now.

432 Q. I think you have to try a little harder than that, Mr. O'Shea?

A. I try as hard as I can, but I can't think of it.

433 Q. Did you have any difficulties of a nature that you felt Mr. Redmond might be able to assist you with?

A. I don't remember. Any land we built on was approved and I didn't, I wouldn't have to ask George anything, it was all approved land. I don't know how my name is coming up there so often.

434 Q. On the 31st of March, which is on the screen, you will see there at 8 or 8:30 in the morning?

A. 8:30 in the morning.

435 Q. So it would appear. At 8 or 8:30?

A. No, that's wrong completely. I was never into that office at 8:30.

436 Q. On the 31st of March it, says "Tom O'Neill" and beneath that "No. 2, Bat O'Shea"?

A. I see.

437 Q. Do you see that?

A. Do.

438 Q. Yes. Do you know a Tom O'Neill?

A. I don't know who he is, I never - I did, I never had a Tom O'Neill.

439 Q. Do you ever remember having an early-morning meeting with Mr. Redmond?

A. No.

440 Q. Can you give me any reason as to why your name might appear for a meeting or appointment at that time?

A. I can't understand, maybe he was going to ring me for golf or something like that. I was never in at half past 8 in the morning, I swear that.

441 Q. The 24th of November of 1988.

A. 24th?

442 Q. On the 24th of November there is an appointment at 3 o'clock in the afternoon, "Bat O'Shea". I think Mr. Redmond told us in reference to those entries, that the reference to B O'Shea or Bat O'Shea was in fact yourself?

A. Yeah.

443 Q. Yes. So, I suggest to you that this appears you had an appointment with Mr. George Redmond at 3 o'clock on the 24th of November of 1988?

A. 1988?

444 Q. Yes. I would like you to tell me, Mr. O'Shea, why you were seeing Mr. Redmond?

A. I couldn't tell you now.

445 Q. Can you think of any business you were doing at the time that would have required his expertise?

A. I can't think of any business. I don't know when we applied for the, for the yard in Buckingham - in Poppintree. I might have mentioned that to him all right.

446 Q. You got planning permission, Mr. O'Shea, and we went through this yesterday, in 1976?

A. Oh, '76 was it?

447 Q. In relation to Poppintree, I suggest it is highly unlikely you would have discussed that matter in November of 1988?

A. '76, '88. We were quite a long time in Poppintree before we put in applications for the, factories we were going to build there, you know?

448 Q. Yes. But you were ultimate, the planning application that was successful in relation to Poppintree was 1976?

A. '76, but afterwards we did try to get small factories in there, you know?

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MR. CREEGAN: Chairman, I think this witness has already given clear evidence that he doesn't know why any of the diary entries are there. He had no, never sought Mr. Redmond's advice on planning issues, and that the only possible explanation he can put forward are in relation to golf matters.

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So, I fail to see why Ms. Dillon wishes to keep putting the questions.

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MS. DILLON: I am entitled, I think, Sir, to inquire as to why this witness, who says he did not have any dealings with Mr. Redmond, bar the two that he gave evidence about yesterday, appears on four occasions in his diary in 1988 in circumstances in which if I did not inquire into it, I would be derelict in my duty to you, Sir.

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CHAIRMAN: Well, I think once you have inquired into it and he said "no", you can pass from it, because it is not, it appears to me, not adding much to our store of knowledge.

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449 Q. MS. DILLON: No, Sir, as you wish. The next entry, Mr. O'Shea, is the 22nd of November of 1988.

A. Is that right? I don't know.

450 Q. And that's, that says an appointment at 10 o'clock, "B O'Shea"?

A. B O'Shea, that's me. That's me.

451 Q. That's you?

A. That's me.

452 Q. Do you remember going in to see Mr. Redmond?

A. I can't remember going in to see him, maybe - B O'Shea, maybe he rang me. It could be that way, you know.

453 Q. But is it your evidence, Mr. O'Shea, that on all of these occasions in relation to these diary entries, you do not recollect going in to see Mr. Redmond?

A. Do not. As sure as I am sitting here I can't.

454 Q. I also suggest, Mr. O'Shea, that there is no diary entry for 1988 that includes both yourself and Mr. Gogarty at the same time?

A. Yes. I remember that quite clear.

455 Q. I am suggesting that insofar as 1988 is concerned, there is no entry in the diary that places both yourself and Mr. Gogarty with Mr. Redmond at the same time?

A. Is that right?

456 Q. I am suggesting to you, do you agree or disagree with that, Mr. O'Shea?

A. Well, I rang Mr. Redmond for an appointment that I was, Mr. Gogarty wanted to see him. That's the only thing I can, I am quite clear in that.

457 Q. The next documents I want to show to you, Mr. O'Shea, deal with the negotiations with Dublin Corporation, these are the documents that were circulated just before lunch when the file became available. And you recollect, Mr. O'Shea, when we had gone through these documents previously you had told me you did not start negotiations with Mr. Gogarty until you had been informed by the Corporation that they were no longer interested in buying your land; isn't that right?

A. Yes because, I would be prepared to sell the, if they gave me any indication at all that they were buying it.

458 Q. You would have been happy to go with them?

A. I certainly would.

459 Q. And the documentation that we had brought us up as far as the 17th of November, 1987.

A. 1987.

460 Q. This documentation deals with what I would call the balance of the valuer's file from Dublin Corporation, including the internal memoranda?

A. Yeah.

461 Q. Now, the first document parallels the document we have already looked at, which is a letter, and it sets out - it is a document dated the 25th of September, '87. It sets out that "The following negotiation agreement has been reached with Mr. B O'Shea", that's you, "Of O'Shea & Shanahan for the acquisition of the property under the following conditions", and it sets out terms and conditions. That's the 25th of September, 1987. Then there is a letter of the 6th of October, '87.

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MR. HERBERT: Excuse me, before My Friend proceeds, the letter of the 25th of September of 1987 according as I have - is a letter from somebody who is - it is an internal matter between the Chief Valuer and the Principal Officer of the Community and Environment Department; isn't that right?

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CHAIRMAN: Look, there is no doubt about that being correct. But the point about this, as I understand that file of correspondence, read, really establishes that, I beg your pardon, really suggests that Mr. O'Shea's current recollection that negotiations with the, with Dublin Corporation ceased in or around the end of November. Now,

the, there is a letter I understand, I actually haven't read it myself, I understand there is a letter on that which indicates that the negotiations went on to a much later date in April of 1988 or '89.

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MR. HERBERT: '89, Sir, not at all, when you look at the terms of that letter it will be perfectly obvious to you that that is not the situation on the face of the document itself.

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MS. DILLON: If I'm allowed to go through the document in my own time.

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MR. HERBERT: It says "Would you reopen negotiations"

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MS. DILLON: Sorry, Mr. Herbert is now talking about a document that I will come to in its logical sequence. It may suit Mr. Herbert that I would jump from this, I would prefer to deal with this in a logical fashion.

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MR. HERBERT: All I want to know, Sir, is for the record, My Friend omitted, I am not being critical at all, just for the record that the letter of the 25th of September, '87, was not a letter addressed to Mr. O'Shea but was an internal letter from the Chief Valuer to the Principal Officer of the Community Environment Department.

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MS. DILLON: I never suggested it was a letter to Mr. O'Shea. If I can make it clear, if Mr. Herbert had listened to me, Sir, I said this document mirrors a letter that we read out earlier this morning, the letter in question being the letter of the 17th of September of 1987

addressed to Messrs. O'Shea & Shanahan, which I had hoped I would not have to read into the record again this afternoon. I was trying to move things along a little more, I said this document mirrors what is said in that.

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MR. HERBERT: I accept that, but it must be made plain that it is not a letter to this witness.

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462 Q. MS. DILLON: Very good. Mr. O'Shea, we are going to start with all of the documents, we are going to go through them one by one and, including the documents we went through this morning?

A. Proceed.

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CHAIRPERSON: Ms. Dillon, is that necessary in the light of the document on the 26th of April, 1989? Isn't it only a matter of going to the perfectly honest failure of this good witness' memory, that it would appear from that document of the 26th of April of 1989 that the, certainly within the Dublin Corporation they had decided that they were not proceeding with the sale, with the purchase rather? Isn't that the effect of what that document is, and it would suggest that at that point in time Mr. O'Shea here would be free to negotiate with anybody else who would buy the premises from him.

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MS. DILLON: Yes, Sir, I was going to open that letter in sequence.

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CHAIRMAN: I am sure everybody - we don't have to go through the documents.

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463 Q. MS. DILLON: Then I am more than happy to deal with just that letter. There is a letter, Mr. O'Shea, forget all the other letters, right?

A. I am glad to forget about them.

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MR. HERBERT: I would like My Friend to open the letter of the 4th of December of 1987 from Mr. O'Shea to the Dublin Corporation Chief Valuer's office.

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CHAIRPERSON: The 4th of December, just a moment.

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MS. DILLON: In that case the only way to deal with it is to put it all in and deal with it in a logical orderly fashion rather than chopping and changing for documents.

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CHAIRPERSON: The 4th of December is simply a change of solicitor. What does, how far does that advance us?

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MR. HERBERT: Because if you read the last bit of the letter, Sir, "Mr. G O'Shea is the solicitor acting for us". Who is Mr. G O'Shea?

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CHAIRMAN: Gerrard O'Shea.

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MR. HERBERT: Is Mr. O'Shea in the Tribunal? Who is he?

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CHAIRMAN: No.

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MR. HERBERT: He is, he is sitting next to you, Mr. Chairman. There he is.

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MR. CREEGAN: It refers to Mr. Gerrard O'Shea who is

present here on my left.

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CHAIRPERSON: He is the son of the witness.

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MR. CREEGAN: Exactly.

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CHAIRMAN: And a solicitor, he has been appointed as of the 4th of December of 1987, "solicitor involved". But isn't the reality of this situation that the witness has perfectly genuinely made a mistake in his recollection as to when he was, felt himself free to negotiate with another party other than the Corporation. That would appear to be some time later than the 26th of April of 1989.

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MR. HERBERT: Mr. Chairman, at that time he had already signed a contract to sell on.

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CHAIRPERSON: Then the Dublin Corporation have got it wrong.

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MR. HERBERT: No, Dublin Corporation, Sir, if you read the last paragraph: "In the light of the above agreed price", it refers, Sir, "I refer to your memorandum of the 25th of September of 1987", and then it goes on to say: "In the light of the above, the agreed price reached appears to be exceedingly high and it is understandable that the Department of the Environment will not approve of it. However, I have prevailed on them to let us have another opportunity to renegotiate a price much lower than this in order that the site will not be lost for housing of travellers. Would you please therefore reopen, reopen negotiations with Mr. O'Shea of O'Shea & Shanahan with a

view to securing a substantial reduction in the purchase price with regard to the disadvantages this has. CV to contact B O'Shea directly".

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At this stage we know the contract of the 20th of April of 1987 had already been signed to purchase the property for £65,000.

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CHAIRMAN: It may have been, if you look at the first paragraph, "I refer to your memorandum of 27th of September of 1987, setting out the terms of the above site which measures", etc.. "The Department of the Environment will not approve the purchase on these terms", that would appear to be a decision communicated from the Department on the 26th of April of 1989.

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MR. HERBERT: No, not at all.

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CHAIRPERSON: Well, does it really matter?

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MR. HERBERT: Well, Sir -

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CHAIRMAN: Doesn't it suggest that the whole, that this witness is perhaps in error about the date upon which he negotiated the sale to Baileys?

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MR. HERBERT: Sir, that cannot be so. We have the contract, the signed contract is here.

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CHAIRMAN: To who?

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MR. HERBERT: Between Grafton Construction and O'Shea and

Shanahan, the 20th of April of 1989, for £65,000, signed by the liquidator of O'Shea & Shanahan and signed by Denis McArdle for the purchaser.

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CHAIRMAN: What date is that?

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MR. HERBERT: That is dated the 20th of April of 1989, in other words six days before this interdepartmental memorandum was issued. If it is going to be suggested to you, Sir, that this letter --

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CHAIRMAN: Let's calm this thing down. There is a misunderstanding.

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MS. DILLON: Sorry, Sir, there is no misunderstanding. What I suggested was that I would deal with the correspondence, all of it in logical sequence, starting with the first in time and concluding with the last in time. Mr. Herbert wasn't happy with that.

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MR. HERBERT: Please now, Mr. Chairman --

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MS. DILLON: That is what I propose to do.

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MR. HERBERT: Mr. Chairman, if *ex abundante cautela*. I know you are reading this letter for the first time and you are entitled to misinterpret it on the first reading. If your interpretation on the first reading might become the interpretation you take at the end of the proceedings, I would have to insist, Sir, that Mr. Geoghegan who appears to be the author of the letter, and Mr. McClune, be called to give evidence before this Tribunal.

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CHAIRMAN: One thing I can tell you is we are not going into this correspondence to that detail, it has not quite sufficient value. We are wasting time to a large extent in this matter. We now want, it is simply a matter as to when this witness' recollection may have been inaccurate in the evidence he gave, and it is more than probable that at the time of that, somewhere prior to the date of that contract that you have just referred me to, he felt himself free to negotiate with somebody else, that's all that's involved.

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MR. CREEGAN: Chairman, could I just say in relation, certainly you put a question to me - in relation first of all to the letter of the 4th of December of 1987, that's clearly a letter to Dublin Corporation from O'Shea & Shanahan.

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CHAIRMAN: Um hum.

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MR. CREEGAN: As at the 4th of December of 1987 it is clear that Mr. O'Shea was still negotiating with Dublin Corporation. To that extent his evidence may have been slightly incorrect because he said sometime around mid-November of 1987, this letter clearly advances it to the 4th of December of 1987, so clearly as at that stage he was still negotiating with Dublin Corporation. I don't think we can put the matter any further.

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CHAIRPERSON: I don't think it can be put any further, there simply was a period of time which he, there was an interreg when he could not make his mind up as to whether

or not they were going to accept, and whether he could seek another purchaser. He wouldn't have sought another purchaser, at a lower figure if the Dublin Corporation were still likely to complete, it is as simple as that.

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MR. CREEGAN: In fact his evidence yesterday was not only to that effect, but also to the effect that he had received a call from a County Councillors or a Councillor to say that they were not interested in proceeding.

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CHAIRMAN: So therefore he became entitled to negotiate with Grafton.

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MR. CREEGAN: And his evidence was following on from that, he began to negotiate with Mr. Gogarty.

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CHAIRPERSON: That's the situation.

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MR. CALLANAN: Mr. Creegan is quite wrong, Sir, it is not a lower figure, and that should have been obvious from the evidence to date. So it would help if we proceeded on the basis of Mr. O'Shea's evidence rather than Mr. Creegan's paraphrases.

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MR. CREEGAN: Sorry, I am not sure what figure, Mr. Callanan, I didn't mention any figures.

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CHAIRPERSON: I was the one who mentioned the figures, saying when he couldn't get 80 he wouldn't sell for 65 unless he couldn't get 80, that's what I said. That's the reason he went to negotiate with somebody else. What figure he actually got in the end I don't know, nor do I

really mind.

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MS. DILLON: I suggest, Sir, in the light of all of these submissions that probably the best way and fairest way to approach this matter from this witness' point of view, in view of his age, is that I would take him through the correspondence and the correspondence will establish that he was in communication up to December 1987 with Dublin Corporation, that then the file goes dead for a period of 18 months, and it appears to be that in that 18 month period he initiated his negotiations with Mr. James Gogarty, that ultimately concluded in the contract for sale.

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Now, I intend to put this sequence of correspondence to him. I intend to put to him that that is the most reasonable conclusion to draw from the gap in the correspondence. And I intend to put, subject to you giving me permission to do so, Sir, the entire correspondence in a logical fashion.

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CHAIRPERSON: Well, I suggest that unless somebody has an objection to your summary that is correct, we should accept your summary as being the most probable sequence of events and not go through the correspondence, which is going to yield nothing more than confirmation that you are correct. Isn't that so? Mr. Herbert, have you any problems with that?

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MR. HERBERT: Mr. Chairman, I have no problems with the scenario that between the letter of the - the issues of the letter of the 4th of December of 1987, which seemingly

reached its destination on the 14th of December of that year and - bear with me a second, Mr. Chairman, and the 17th of March of 1989, Mr. O'Shea felt free to deal with the liquidator, sorry with Grafton Construction Company Limited and sell the land to them for £65,000.

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CHAIRPERSON: Isn't that the net situation?

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MR. HERBERT: And I am taking my dates, Sir, from document DMA 2/234 which is a McArdle memorandum it appears, which says, "Joe says go ahead with O'Shea and Shanahan deal. 65K closing two, three months time. Pay deposit. Meet them on the ground rents". That's the date I am saying. Between those two dates, Sir, at some time between those two dates Mr. O'Shea felt free of any obligation to the Corporation and proceeded to sell to Grafton. I have no objection to that.

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CHAIRPERSON: Okay, we will take it on that basis, that that was the situation and he ultimately did sell to them at that figure, there or thereabouts.

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MR. HERBERT: Yes, Sir.

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CHAIRPERSON: Okay, can we go on now with the events of the day?

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464 Q. MS. DILLON: Just one further matter I want to take you back to Mr. O'Shea, this is the last matter.

A. I hope to God it is.

465 Q. Yes, I promise you this is the last matter?

A. Thanks be to God.

466 Q. You said yesterday when you had the difficulty out in the Martello Tower, the Martello site, do you remember that?

A. Yes, I do.

467 Q. And you went in to see Mr. George Redmond, do you remember that? You had a problem with the residents out on the site at Martello, they didn't want you to build a pub?

A. That's right, I did, yes.

468 Q. And yourself and Mr. Shanahan went in to see Mr. George Redmond?

A. That's right.

469 Q. Did you ring up Mr. Redmond to make an appointment?

A. We rang up the Dublin Corporation, the County Council that we wanted to meet them.

470 Q. And you made an --

A. Reference to the surface water drain, we were asked to go down to below water.

471 Q. No, Mr. O'Shea, I want you to think about this. Do you remember the difficulties you had in Martello with the residents objecting to you having a pub?

A. That's right, yes.

472 Q. Somebody put water into your cement silo?

A. That's right.

473 Q. Yourself and Mr. Shanahan went in to see Mr. George Redmond in the Dublin County Council offices?

A. Yes, that's right.

474 Q. When you got there did he have maps out on the table?

A. We told him we were going in about the trouble.

475 Q. Yes. When you got in there had you maps with you?

A. I think Redmond had maps, we had maps in my pockets, but I think Redmond had maps there himself.

476 Q. And on those maps Mr. Redmond, did Mr. Redmond indicate to you a suitable site for the church?

A. He did, yes, he said - "well, I wouldn't blame the residents a little bit because a pub inside in a big estate like that, it is not the best for children and that kind of stuff". He says that the church is looking for a site to build a church. He pointed out the land there, that's not zoned, but I am sure that if the church looked for, you were draining - roads and drains running in front of it.

477 Q. Yes.

A. I am sure the church would get planning permission for that.

478 Q. So at that meeting Mr. Redmond's suggestion to you was that on unzoned land you would build a church, or a church would be built?

A. I wouldn't build it, I gave it to the parish priest, that was his business, if he could build it or not.

479 Q. If you just take one step at a time with me, Mr. O'Shea, we will get through it much quicker. If you look at the map that's beside you on the screen, you will see a black cross beside Lot 6, the red lot?

A. Yes, I saw that yesterday too.

480 Q. That you confirmed yesterday is the church?

A. Yes, it is, yes.

481 Q. And the road that you are talking about, that had the drain in it, is that the road that is running beside Lot 6?

A. It would be the, surface water, it was taking all that land there, you see.

482 Q. So Mr. Redmond suggested to you that the drain would be put down on the road beside the church?

A. Correct.

483 Q. Yes, and this is the drain --

A. Wait a while now. Repeat that again to me.

484 Q. What you had said to me when you were giving evidence was

that Mr. Redmond had said to you that you could give the land to the church, and on that road you would be able to put down your drain underneath that road?

A. Sure the drain was there already.

485 Q. The drain was there already?

A. Drain and road and all was there already.

486 Q. Was there already. What about the church which was on unzoned land?

A. It would be unzoned.

487 Q. And so on that land the drain in question is running on the road where the church is leading up to Lot 6?

A. That's right. They could utilize the drain.

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MR. CREEGAN: Sorry, Chairman, if I may intervene? I apologise to Ms. Dillon for this. I wonder is there a confusion between two meetings, because from Mr. O'Shea's statement at page 3 of the statement, he says the first problem that arose was in relation to a surface water drain in Portmarnock, he then went in --

A. That's correct, yes.

.

MR. CREEGAN: Then that was - at that meeting they met four people in the Council offices, including George Redmond and the Chief Engineer, the meeting was not a success, the drain was subsequently built by a subcontractor. Subsequently there was a second meeting, that meeting had to do with the church rather than, as I understand it, the drain.

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488 Q. MS. DILLON: Yes, that's correct, that is in Mr. O'Shea's statement and I don't think there is any confusion, I think Mr. O'Shea and I are talking about the second meeting.

That took place when he went in around the residents disrupting and Mr. Redmond had the maps out?

A. Yes, I think he had, but we had them in my pocket, the maps were put on the table.

489 Q. The drain in question, what I am trying to establish, the surface water drain that you put down, did that run along the road in front of the church?

A. Yes it was, road and drain and foul drain and all was there.

490 Q. And that was a very large capacity drain?

A. It was, yes.

491 Q. And that would have drained Lot 6 the red piece in front of you; isn't that right?

A. It did, it certainly would, yes. As a matter of fact yes. Go ahead.

492 Q. It would also have drained more lands than are in Lot 6?

A. It would, yes.

493 Q. Yes. And you told me yesterday, and I think again this morning, that you went back to Mr. Murphy to buy Lot 6?

A. I did, yes. I was very anxious to buy that, yes.

494 Q. And Lot 6 is part of the green belt, was --

A. Yes, but it is not a part of the green belt now.

495 Q. It is not a part of the green belt now, but at the time you were looking to buy it, it was part of the green belt and zoned amenity?

A. Yes.

496 Q. You told me yesterday you knew you would get it rezoned?

A. I didn't say that I would get it rezoned.

497 Q. Yes you did?

A. I said I would buy it, it would be a good proposition to buy.

498 Q. I think in fact you said --

A. I didn't.

499 Q. Because what I want to ask you, Mr. O'Shea, is --

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MR. CREEGAN: Sorry, I don't think Mr. O'Shea said yesterday he knew he would get it rezoned, I think he may have said he would take a chance, "you have got to take a chance".

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MS. DILLON: I will find it, it was in the first day's transcript.

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MR. CREEGAN: What he said in relation to the land, was land at Swords as I recollect, he said that sure he was of the view that it was bound to be zoned at some stage, as I recollect it.

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500 Q. MS. DILLON: This land was ultimately rezoned I can tell you, I think in 1992?

A. I couldn't tell you.

501 Q. After Mr. Bailey purchased the lands?

A. That's right.

502 Q. And I want to know did you discuss with Mr. George Redmond when you went to see him about the problems you were having with the residents at that meeting, when you were looking at the maps, did you discuss with Mr. Redmond the possibility of zoning that piece of land?

A. I did not.

503 Q. Are you sure about that?

A. I did not, I didn't say a word about it. I don't think we, I don't think I mentioned anything to Mr. Redmond about the facilities we had for, made for that land by going through the rock. We went down 14 feet of rock to

facilitate that bit of land because we knew it would be zoned sometime. It was a site in the middle of an estate, yes in the middle of an estate, yes.

504 Q. How do you mean you knew it would be rezoned, Mr. O'Shea?

It is in the middle of the green belt?

A. You would have to take a chance on that, you know.

505 Q. But I mean, this was an opinion that you had about the rezoning of this land in the 1970s, this land was never rezoned until 1992?

A. Well, I mean we were prepared to take it easy, it was a very good investment, that land was a very good investment, whatever we paid for it. And it was agricultural land at the time, so I thought I would get it at a reasonable price. It was better to have money in the land than in the bank because --

506 Q. But if you look at the map beside you, Mr. O'Shea, I must suggest to you this is not a site in the middle of a housing estate?

A. It is touching it.

507 Q. It is touching on one side and bounded on three sides by the green belt, and I am just curious to know why you were reasonably sure you would get rezoning for this land?

A. I wasn't reasonably knowing that I would get planning permission.

508 Q. I am not talking about planning permission, I am talking about rezoning it?

A. That's not same thing sure.

509 Q. No, it is an entirely different thing as you well know, Mr. O'Shea?

A. I know, yes. Once it is zoned you can build on it.

510 Q. That may very well be, Mr. O'Shea, but the first thing that comes is the rezoning?

A. Definitely, you can't go into a field and start building houses there at all.

511 Q. Were you reasonably confident when you approached Mr. Murphy about acquiring this land that you would be able to get it rezoned?

A. I was not.

512 Q. But you were happy to speculate?

A. I speculated on it anyway, because I thought I would get it reasonable.

513 Q. You thought you would get what?

A. I thought I would get the land at a reasonable price, you know.

514 Q. Yes. Thank you --

A. The agricultural price.

515 Q. Thank you, Mr. O'Shea, would you answer any questions that any of the other gentlemen here --

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CHAIRMAN: Before that happens, would you like a break?

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MS. DILLON: Sorry, would you like a break?

A. How long more?

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MS. DILLON: That's not a matter for me.

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CHAIRMAN: I don't know the answer to that.

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MR. CREEGAN: I think if we could take a short break, Chairman.

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CHAIRPERSON: A short break?

A. Short break. Yes.

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

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MS. DILLON: I understand, Sir, that Mr. Harris wishes to  
go first and there is no objection to that.

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CHAIRMAN: Right. Off you go, Mr. Harris.

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THE WITNESS WAS THEN CROSS-EXAMINED BY MR. HARRIS AS  
FOLLOWS:

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MR. HARRIS: I just won't be here tomorrow, Mr. Chairman.  
Thank you very much for facilitating me.

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516 Q. MR. HARRIS: Mr. O'Shea.

A. Who is talking to me?

517 Q. Look to your right, here?

A. Go ahead. Yes. Proceed.

518 Q. I am going to ask you questions on behalf of Mr. Redmond.

I hope I won't keep you long.

A. I am sure of that, I couldn't say anything against Mr.  
Redmond.

519 Q. Mr. O'Shea, you described how your, you parted company with

Mr. Murphy in 1978, and I think we went through some  
documents yesterday or the day before showing the  
negotiations for the parting of company, do you remember  
that?

A. I suppose I did, yes. I can't actually remember it to be  
honest with you.

520 Q. Do you remember, Mr. O'Shea, when you had described to the  
Tribunal that you went in to see Mr. Redmond about the pub,  
the problem with the pub?

A. Yes, that's right. Yes, I do. I remember that.

521 Q. And he suggested that Mr. Murphy donate a site?

A. That's right, yes.

522 Q. Yes. To the church?

A. Yes.

523 Q. And I think you told Ms. Dillon that at that time Mr.

Redmond was the City and County Manager; isn't that right?

A. Yes.

524 Q. Now, can I suggest to you that if you parted company with the Murphys in 1978 that that meeting must have happened before 1978?

A. It must have I suppose, yes. Because we were building, we were building quite, I mean we were building quite a long time after that, after that church being built.

525 Q. Well, Mr. O'Shea, if I were to tell you that Mr. Redmond didn't become the Assistant County and City Manager until 1980?

A. That's right, that's right, I see. I see.

526 Q. Is there any possibility when you went in to see Mr. Redmond that because of the objections of the locals you really wanted to investigate whether you could get planning permission for any other type of development other than a pub?

A. Yes.

527 Q. Yes.

A. Well, he said if the priest got planning permission for a church, I mean, where we were building the pub it was zoned for houses and the residents there would prefer to see houses rather than a pub.

528 Q. But the problem was that you had permission for a pub and it didn't seem as if you were going to be allowed build a pub?

A. That's right, that's right.

529 Q. Could it be that you were going to see Mr. Redmond about what other possibilities were available for the land?

A. I probably was, yeah.

530 Q. And he suggested if you give, if you give a site to the church, you will get planning permission for houses?

A. Yes.

531 Q. And that's what happened?

A. That's what happened.

532 Q. The local people were happy, were they?

A. They were quite happy.

533 Q. And you were happy?

A. I was quite happy to --

534 Q. And the church was happy?

A. The parish priest was delighted with it.

535 Q. That was good advice?

A. Very good advice and thanked Joe Murphy for giving him the land, it wasn't our land at all, it was Joe Murphy's land.

536 Q. And you think that that may have been before the break up with Murphys; is that right?

A. It was a long time before.

537 Q. I wonder could the witness be shown the letter from Dublin Corporation of the 17th of September of 1987, that's a letter to himself, and it is about the purchase of the Poppintree four acres?

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Now, Mr. O'Shea, we were looking at a lot of documents earlier --

A. I was mixed up with them.

538 Q. -- from the Corporation file. I think the reason we were looking at those was because they might identify the time when you brought Mr. Gogarty in to see Mr. Redmond. Now,

I think you did say something in your evidence this morning, I just want to clarify it. You said, "He told me" - I think you were talking about Mr. Gogarty, "he told me that he didn't know him"?

A. Yes, that's right.

539 Q. Who told you that he didn't know who? Who said that to you?

A. Gogarty hadn't known him at all, hadn't known Mr. Redmond.

540 Q. And as far as you know whenever the meeting was, it was an introduction?

A. Yes, an introduction, that's right.

541 Q. Do you see that letter of the 17th of September of 1987?

A. 17th of September, yes I do, yes.

542 Q. Now, just before we go into that, Mr. O'Shea, you said, I think, I will come back to the letter, but you did say that Mr. Gogarty wanted to speak to Mr. Redmond about a boundary somewhere?

A. Yes, it was in Balgriffin. He spoke a lot about a boundary.

543 Q. But sorry, my understanding of what your evidence was, was that - is that when Mr. Gogarty contacted you, he said that he was having a problem with a boundary and he wanted to speak to Mr. Redmond?

A. That's right, yes.

544 Q. But when you got to the meeting they didn't speak so much about the boundary?

A. Yeah.

545 Q. And I think you said, they talked about Poppintree, sewers and - I just have a note of it here - "Poppintree, lands and drains".

A. Yes.

546 Q. I think you told us you weren't very interested and you

didn't pay much attention?

A. We weren't there very long.

547 Q. When you say "Poppintree", what do you mean? Did they talk about your four acres?

A. My four acres, yeah.

548 Q. Could they have been talking about a court case which would have to do with drains and sewers?

A. I don't think so.

549 Q. You had no interest in it?

A. I had no interest anyway.

550 Q. Okay. Now, you had said earlier, and I want to suggest to you, Mr. O'Shea, that you are probably mistaken about this, you said you really didn't approach Mr. Gogarty until you had finished with the Corporation. And it seems that the Corporation hadn't finished with you until 1979, or sorry 1989, and you had signed the contracts by 1989?

A. What - what was the contract, what was concerning the --

551 Q. Can I just, just look at the letter in your hand, see that the 17th of September of 1987?

A. I do, yes.

552 Q. That more or less sets out that the Corporation are going to buy the land from you for £80,000?

A. Yes, that's right.

553 Q. And you told the Tribunal that you thought of going to Mr. Gogarty and saying, "Listen, the Corporation are going to buy these lands for the itinerants and maybe would you pay me so that I wouldn't sell it to the Corporation"?

A. Well, I tell you, I knew well before that that the Corporation wouldn't acquire that land. I heard it from a good authority, from a senior, from the councillors that they wouldn't be, wouldn't pay 80,000 for that land.

554 Q. Could you have heard there was great opposition?

A. There was. Big opposition there.

555 Q. Is it possible, I just want to ask you this, Mr. Gogarty (SIC), I am really only speculating, is it possible, Mr. O'Shea, that sometime soon after the 17th of September of 1987 you went to Mr. Gogarty with this letter and said "the Corporation are going to pay me 80, would you like to pay me a bit more so that they wouldn't --

A. I don't remember.

556 Q. If you don't remember, fine. Is it possible that you might have done that, and really that's when you started talking to Mr. Gogarty, soon after you received this letter?

A. I can't remember that letter. I can't remember showing the letter to Gogarty at any time.

557 Q. Well, can I bring you then to just one other document, and it will be the last document, and it is DMA 32.246, and it was put into evidence this morning. It is dated the 10th of the 11th, 1988, and it is a handwritten note?

A. Yeah, what was it?

558 Q. I don't know whether that can be put up on the screen or not, it was there this morning? Yes. That's it. If you go down to point number nine. This seems to be a memo of a meeting?

A. Yeah.

559 Q. Now, do you see number nine there, if you look at the screen, "Correspondence with Corpo re: acquiring it as a tinkers site"?

A. Yeah.

560 Q. Now, so you must have shown it to somebody at some stage?

A. I can't remember now.

561 Q. Yeah.

A. No, I don't --

562 Q. Is it possible you might have approached Mr. Gogarty quite soon after receiving the letter in September of 1987?

A. Well, when I knew the Corporation weren't going to take it I mean, I just, I would have sold it to the Corporation but I was informed by good sources that they would never buy that land, that the neighbours were objecting to it and it was too dear.

563 Q. And you don't know when you were informed of that?

A. No, I don't know when I was informed of that now, but I would be mixed up in dates. I am confused with all the dates put up to me today.

564 Q. Can I just ask you one other question, Mr. O'Shea, whenever you played golf with Mr. Redmond, would it be morning golf, afternoon golf?

A. It would be mostly afternoon I would say.

565 Q. Would it be during business hours?

A. It would, yes. It would.

566 Q. Did you have a job to go to?

A. Well I had a foreman that would see after my work, Jaysus if I could, if I had a job to go to, building two sites turning out five houses a week --

567 Q. Well, Mr. Redmond had a job to go to, do you think he might have been playing golfing with you during time, during business hours, let's say his hours of duty?

A. I don't know.

568 Q. Do you think it is possible that the two entries in his diary for '88 and '89 with your name, that's a 3 o'clock entry and a 4 o'clock entry, could they be golf?

A. They could be. They could be, yes. They could be, correct, yes. Because we were playing, we would play in the evening you know, sometimes. What month was that?

569 Q. I am just not sure, Ms. Dillon put the things to you this

morning, but I think one of them was --

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MS. DILLON: It is November, the 11th of February, '88,  
and the 24th of December, '88. 3 pm on the 24th of  
December and 4 pm on the 11th of February of '88?

A. Quite possible we were playing golf.

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CHAIRPERSON: Does anybody else want to ask the witness  
any questions?

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THE WITNESS WAS THEN CROSS-EXAMINED BY MR. HERBERT AS  
FOLLOWS:

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570 Q. MR. HERBERT: Sorry? Yes, Mr. O'Shea, I think you said in  
your - you made a statement to the Tribunal; isn't that  
right?

A. I made a statement to the Tribunal, I expect I did.

571 Q. Yes. On the 29th of October of this year?

A. Yeah, this year?

572 Q. Yes, 1999 - do you have a copy of it?

A. I haven't. This year?

573 Q. 29th of October of 1999.

A. No.

574 Q. Do you recall it?

A. Yes, that's right, yes. Yes, I am looking at that, I know  
all about that, yes.

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MR. HERBERT: I am just wondering, Mr. Chairman, at this  
stage has the witness reached a stage where maybe we should  
continue it tomorrow?

A. By God we will finish it.

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CHAIRMAN: Well now, first of all who else wants to cross-examine this witness. Mr. Callanan?

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MR. CALLANAN: I think I would be about an hour and a half with Mr. O'Shea.

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MR. HERBERT: I will be only about half an hour at the most, Sir.

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CHAIRMAN: Would you like to take the evening off, mitch or go golfing or other things?

A. Jesus, I couldn't play much golf after this.

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CHAIRPERSON: Would you like to take --

A. Christ I wouldn't be able to see the ball, unless it was a gold ball.

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CHAIRMAN: Would you like to relax for the afternoon, you have had a long day?

A. I will. I will relax, sure.

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CHAIRPERSON: All right. We will adjourn until tomorrow morning. We will finish tomorrow.

A. We will finish, it is time for us to finish.

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CHAIRMAN: Tell me this, would 11 o'clock be early enough?

A. God it is.

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CHAIRMAN: You wouldn't like half ten, would you?

A. I would not, thank you, Mr. Chairman.

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CHAIRMAN: All right, we will say 11 o'clock tomorrow

morning. Thank you very much for coming down.

A. Thank you, Mr. Chairman.

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CHAIRMAN: Not at all.

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MR. CREEGAN: I wonder if I could ask, would it be possible to have copies of the transcripts of Mr. O'Shea's evidence for the last two or three days, if Mr. Callanan in particular wishes to cross-examine him on it?

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CHAIRMAN: Well --

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MS. DILLON: The difficulty, Sir, is - the Tribunal has no difficulty, we have met this problem before, there is a problem with the stenographers, with us handing out copies.

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CHAIRMAN: Doyle's Stenographers - we have a problem in relation to copyright. The copyright of the transcripts is in Doyle's, we can't distribute their goods. They can certainly give you a copy because this copy today will be, in round terms it is available about 5 o'clock, between 5 and 7, depending - that's when it becomes available. They will, so far as I know - I don't warrant this, they will deliver to your solicitor or yourself at or about 7:00 this evening.

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You have to make your own arrangements with the Doyle's Stenographers because we can't issue the transcript to you, we are not being - that's a common interest. Likewise we don't undertake to pay anybody's costs except in certain circumstances at the very end of the Tribunal. To give you

a free copy, to say we pay for it would effectively be giving you your costs or part of them, I don't want to break that principle as such.

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MR. CREEGAN: I understand that, Chairman.

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CHAIRMAN: As far as I know Doyle's Stenographers are only too delighted to increase the circulation of their daily transcript. Thank you very much everybody for coming down.

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THE HEARING THEN ADJOURNED UNTIL THE 12TH NOVEMBER, 1999,  
AT 11 AM.