

THE HEARING RESUMED AS FOLLOWS ON THE 7TH DECEMBER, 1999,

AT 10:30AM:

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CHAIRMAN: Good morning everyone.

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MS. DILLON: Mr. Mohan isn't here, but Mr. Callanan is going to be at least another hour, so I presume we can proceed?

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CHAIRMAN: We'll carry on.

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JOSEPH MURPHY JUNIOR RETURNED TO THE WITNESS-BOX AND CONTINUED TO BE CROSS-EXAMINED BY MR. CALLANAN AS FOLLOWS:

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1 Q. MR. CALLANAN: Thank you, Sir. If I can just carry on a few matters from the last issue we were discussing yesterday, Mr. Murphy. You were able to put a precise date on your meeting with Mr. Copsey, 1st of July, 1997. How were you able to do that?

A. I knew it was the afternoon after I met, my second meeting with Mr. Ahern.

2 Q. Had you made an appointment to see Mr. Copsey?

A. No.

3 Q. You just arrived at his office in the afternoon?

A. That's correct.

4 Q. Did you go straight from Fitzers?

A. I think so, yes.

5 Q. And you just went into the office. Had you spoken at all to Mr. Copsey apart from the one telephone conversation you had referred to? Had you spoken to or met him since he left JMSE in 1990?

A. No.

6 Q. But you still just were able to arrive down and see him immediately?

A. That's --.

7 Q. That's in his office?

A. That's what I did, Mr. Callanan, yes.

8 Q. And I think likewise, when you were asked on Day 111 at page 121 when you became aware of the McArdle documents, you said early August, July or August of 1997, some of them August, some of them maybe July, and you were in a position to say the following day that the McArdle documents were furnished to your solicitors on the 11th of August?

A. Copies of certain documents, furnished on the 11th of August, coupled with certain documents that we had uncovered in JMSE.

9 Q. But your letters, your reply on Day 111 suggested that the documents from Mr. McArdle had arrived in more than one batch over a period stretching perhaps from July into early August?

A. I didn't suggest that at all.

10 Q. I see. So there was a, all the documents from Mr. McArdle were received at the same time?

A. No, they were copy documents. I think that Mr. McArdle send over a box of files that were copied in Mr. Fitzsimons' office, they were sent back to Mr. McArdle and then at a later stage, he transferred all the files, including the Forest Road land, including the lands here in question, and the arbitration between them, he sent that back in full at a later stage in the beginning of October.

11 Q. And those documents furnished by Mr. McArdle would have included all the documents germane to Mr. McArdle's position relevant to the payment to Mr. Burke, the monies that were used to pay Mr. Burke?

A. That's correct, yes.

12 Q. Yes. And I think you referred yesterday to putting together a jigsaw as to what happened, when did the last piece of the jigsaw fall into place, Mr. Murphy?

A. I think that we had a fair reflection of the picture in or around the 14th, 15th of August, but I suppose the final piece mightn't have fallen into place until we got the whole of Mr. McArdle's files in October, but we had it, 95 percent, 96 percent, 97 percent there on, in or around the 14th of August.

13 Q. And what was, what was the - this was effectively the putting together of the records which, from JMSE, and the copy documents from Mr. McArdle?

A. Correct.

14 Q. And Mr. Cush in the cross-examination of Mr. Grehan referred to, said that, just as you have said, that it wasn't until mid August of 1997 that yourself, Mr. Reynolds and Mr. Maher were in a position to confirm that £30,000 had left JMSE.

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Now, your evidence to the Tribunal didn't refer in this connection at all to Mr. Maher?

A. Well Mr. -

15 Q. Can I ask you --

A. Mr. Maher would have been his accountant, he would have been helping with the accounts and bank statements and all that, yes.

16 Q. And --

A. It would have been Mr. Reynolds that would have been asking Mr. Maher to look for this, that or the other.

17 Q. Well, did you talk to Mr. Maher about the suggestion that there had been a payment from JMSE funds to Mr. Burke?

A. May well have done around this time, yes.

18 Q. When did you first talk to Mr. Maher?

A. I think in around the time that we were putting the detailed investigation together, in '97.

19 Q. That's, what is the period of the detailed investigation?

A. The period of the detailed investigation is from 1st of July until the, until we pieced, as I say, 95 percent of it together on the 14th of August.

20 Q. And what was Mr. Maher able to tell you when you spoke to him? You spoke to him, I take it, over that period of what you are calling "the detailed investigation"?

A. I did,.

21 Q. Yes. What did Mr. Maher say to you?

A. Mr. Maher was trying to recover documents for myself and Mr. Reynolds.

22 Q. Well, was Mr. Maher - apart from any documents he could furnish, was he in a position to enlighten you as to --

A. No he wasn't, no.

23 Q. Was he able to tell you what documents indicated or did he simply furnish you --

A. He furnished us with the document, he looked for the documents and furnished us with them.

24 Q. So, Mr. Maher didn't indicate that he had any knowledge previous to this time of the payment to Mr. Burke?

A. He had no, he had absolutely no knowledge of a payment to Mr. Burke.

25 Q. You see, Mr. Murphy, it is a remarkable fact, that you indicated to the Tribunal yesterday that the first occasion, the first suggestion that you should carry out an inquiry into the documents held by Denis McArdle should have emanated from your solicitors, Fitzsimmons Redmond. You had undertaken an inquiry on behalf of JMSE, on your

evidence, into what had transpired, and yet it wasn't until Messrs. Fitzsimmons Redmond were retained that you went near Mr. McArdle or looked for Mr. McArdle's documents, that's your own case, Mr. Murphy.

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MR. COONEY: That's not a question, that's an argument. It is a comment started off with the words "it is a remarkable fact".

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CHAIRMAN: He is putting a premise to him and asking him to respond to it. I agree that it is a complex or compound question, I won't disagree with you there. So perhaps we could break it up.

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MR. COONEY: Yes, I don't mind questions.

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CHAIRMAN: I appreciate that.

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MR. COONEY: But not an argument.

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CHAIRMAN: I appreciate it. You have to break that proposition up. It is compound to say the very minimum.

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26 Q. MR. CALLANAN: Yes, I will try again, Sir. You undertook an inquiry into these allegations; isn't that so?

A. Correct.

27 Q. That's been your evidence to the Tribunal. And what I am saying to you is that in that context, after you had denied the payments to Mr. Connolly, after you had denied the payments to Mr. Ahern, that you should not have gone near Mr. McArdle until Fitzsimmons Redmond suggested it to you, I am suggesting that's an extraordinary circumstance, and

asking you have you any explanation?

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MR. COONEY: With respect, Chairman.

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CHAIRMAN: That's a perfectly permissible question.

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MR. COONEY: Let me make my submission. It is not a proper question to say to somebody "it is extraordinary". He can say "it is extraordinary because", "do you agree or disagree", he can not proceed on the basis of arguing with the witness like putting statements "it is inconceivable", "it is extraordinary", "it is remarkable". They are not questions, Mr. Chairman. Questions are determined to elicit facts or to test facts which have already been given in evidence.

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CHAIRMAN: The question that was put - where am I? "That's your evidence" - "What I am saying to you is that in that context, after you had denied the payments to Mr. Connolly", premise No. 1, "after you denied the payment to Mr. Ahern", premise No. 2, "that you should not have gone near Mr. McArdle until Mr. Fitzsimons suggested it to you. I am suggesting that that's an extraordinary circumstance and asking you for an explanation".

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You have three premises there for which an explanation is being asked. I think the witness is quite competent, very competent witness, knows exactly what he is saying and he doesn't require to be spoon fed, and I think he is perfectly capable of answering that question.

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MR. COONEY: I know he is capable of answering the

question.

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CHAIRMAN: I think it is also a perfectly clear question.

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MR. COONEY: I am merely making a legal submission, Mr. Chairman. If you decide it has no merit, that's the end of the case. I am simply submitting to you that's not a proper form of cross-examination because it is argument rather than question. However, if you rule against me so it be.

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CHAIRMAN: I rule against you on the basis that I believe there are three premises put. He is asked to, asked "have you any explanation". I see nothing wrong with that. The premises are clear and he is simply being asked to explain.

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MR. COONEY: May it please you, Sir.

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A. Mr. Callanan, it must be remembered that the first indication, as I gave in my evidence, of any sort of political contribution was on the afternoon of the 1st of July. Before this period, as we have gone through the various articles that appeared in '96, it had died down. I personally had no involvement in this, while I was consulted with my solicitors in, on it, I knew there was no truth in it. However, when I did put the detailed investigation in July, I mean, May, June, July, as I explained yesterday it was a very, very busy time for me, I had personal problems, my family had personal medical problems. I was trying to run a business, I was trying to

come back here to Ireland to deal with the allegations, and when we went, started off the detailed investigation in July, I was in constant consultation with my solicitor, Mr. Fitzsimons, and he said "we will have to go to Mr. McArdle". I rung Mr. McArdle on numerous occasions in July.

28 Q. You knew for a very long time, didn't you, that Mr. McArdle had been the solicitor acting in the sale of the lands?

A. Of course I did.

29 Q. And Mr. McArdle had been acting in the arbitration?

A. He had.

30 Q. Wasn't it the most obvious line of inquiry if you were pursuing a general line of inquiry?

A. Correct. As I said I made contact personally, and my solicitor, Mr. Fitzsimons, made contact with Mr. McArdle on numerous occasions.

31 Q. But the suggestion that you did so only emanated from your solicitors?

A. This would have been discussed at a briefing with Mr. Fitzsimons, yes.

32 Q. And if I can just turn to the meetings you had with Mr. Dermot Ahern. I take it that you would accept that Mr. Ahern is a politician with no axe to grind against you or your family?

A. Not then, no.

33 Q. You think he might have now?

A. Yes.

34 Q. Well as of that time, as of the 30th of June there was no history?

A. Absolutely not, and I think I have given my evidence that Mr. Ahern was very polite and friendly when we met.

35 Q. The fact of Mr. Ahern arranging to see you at all was an

extremely serious matter; isn't that so?

A. Yes, a potential Taoiseach of this country had asked him to come and see me.

36 Q. Yes. There were major national interests concerned, it wasn't just an important matter from the point of view of JMSE or your family?

A. From their point of view, yes.

37 Q. And it was whether, on it turned the issue of whether an extremely prominent Fianna Fail politician was a suitable figure for senior Cabinet office?

A. That was a matter for the Party Leader and Fianna Fail, not for me.

38 Q. But the purpose of Mr. Ahern speaking to you was directly related to the issue of Mr. Burke's suitability, wasn't that the whole point of seeing you?

A. Yes.

39 Q. Likewise, it was an issue which affected whether or not a government of a particular composition took office at all; isn't that so?

A. That's a matter for them.

40 Q. So, you would accept that you were under a solemn obligation of veracity in your dealings with Mr. Ahern?

A. When I met Mr. Ahern, everything I told Mr. Ahern at that time was in good faith.

41 Q. But you were obligated in that situation to ask, answer any questions that were put to you, candidly and fully to ensure that Mr. Ahern as the emissary of the Fianna Fail leader was left under no misapprehension as to what had occurred?

A. We had an amicable conversation and I gave him the facts as I knew them at the time.

42 Q. And I think what Mr. Cooney in cross-examining Mr. Ahern

put to him, was that - it is at page 91 on Day 50. Sorry,
in fact it's page 90 in fact, I am sorry.

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MS. DILLON: Does Mr. Callanan wish us to give the
transcript to the witness?

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43 Q. MR. CALLANAN: Yes. It is Mr. Cooney's question at page
371, and he says: "Now he", meaning yourself, "agrees that
you, Mr. Ahern, did ask if Gogarty would have access to the
sorts of money which had been spoken about and whether he
was a cheque signatory. He will say that he told you that
he was not sure at the time but he would check, do you
remember that?" And Mr. Ahern responds: "There wasn't a
huge amount of discussion about who was the signatory, the
cheque signatories. What really I asked all the time,
because I was trying to get out whether or not Gogarty
could have taken money out of the company without his
knowing". And Mr. Cooney goes on to say: "Yeah, well I
will come to that later on. And we will deal with
telephone conversations. I suggest during the course of
the first interview that you had with him, did you raise
the issue? He told you that he had checked with Roger
Copsey, his father and with Frank Reynolds and they said no
payments and then you asked him, I think, probably probing
the matter more, whether or not James Gogarty had been a
signatory and that he would check to see whether or not he
was a signatory at the time". And the answer of Mr. Ahern
is: "Well, my understanding was that Mr. Gogarty, at the
time my recollection is that Gogarty still had the ability
to get money out of the company.

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I think what was slightly up in the air was whether or not,

I think he probably couldn't on the first meeting one hundred percent confirm the position but he was quite adamant about having investigated the matter because of all the allegations over the last year and a half that nothing transpired within the company that would suggest that money could have been taken out".

And it is something, this matter of checking whether or not Mr. Gogarty was a cheque signatory was something which Mr. Cooney emphasised in his cross-examination of Mr. Ahern; isn't that so?

A. Correct.

44 Q. And indeed, you went so far in your evidence as to say that the purpose of the second meeting with Mr. Ahern, the meeting in Fitzers on the 1st of July, was to inform him that you had checked about the second signatories in 1989?

A. That's correct.

45 Q. That's your evidence. Is that still your evidence?

A. Yes, that was the main purpose, plus the conversation with Bailey, it was, that I had with Mr. Bailey as well. But I had checked in the intervening period. I wasn't sure whether Mr. Gogarty was a cheque signatory during that period in 1989, I had checked, I was informed that he was. I went to tell him this and to relay the conversation with Mr. Bailey.

46 Q. But surely the whole primary purpose of the second meeting with Mr. Burke arose out of what Mr. Bailey had told you?

A. We discussed both issues, Mr. Callanan.

47 Q. Well, isn't it quite clear from the balance of the evidence before the Tribunal to date, Mr. Murphy, that the primary purpose, the reason you rang Mr. Ahern on the day after you had spoken to Mr. Bailey, you rang him on the 30th to make

an appointment to meet him the following day, that the primary purpose was surely the telephone conversation, or the conversation you had with Mr. Bailey which was a matter of great concern to you?

A. The telephone conversation I had with Mr. Bailey, plus informing him about Mr. Gogarty being a cheque signatory at the time, both.

48 Q. So you are saying both of these were equal?

A. Both of these matters were of importance. I relayed both of them to Mr. Ahern, and I don't think that Mr. Ahern disputes that, that both were discussed.

49 Q. And this was not an automatic second meeting arranged at the first meeting, it was a meeting which you specifically rang Mr. Ahern to arrange before you came to Dublin?

A. I did, yes.

50 Q. And what I want to put to you is this, Mr. Murphy; you were aware that Mr. Gogarty had negotiated the sale of the North Dublin lands to the Baileys; isn't that so?

A. Correct.

51 Q. And you were aware that Mr. Gogarty was the source of the allegations and was putting himself at the meeting with Mr. Burke?

A. I was.

52 Q. And you were, your case has been that Mr. Gogarty was in sole control of the lands?

A. He was in sole control of the lands, he negotiated on his own the sale of the lands to Mr. Bailey.

53 Q. And you had, you were in a position to tell Mr. Ahern that Mr. Gogarty was a vicious evil liar?

A. I most certainly did.

54 Q. And your evidence to the Tribunal is that the first occasion on which it occurred to you to check whether Mr.

Gogarty was a signatory on the JMSE cheques in 1989 was at the meeting with Mr. Ahern?

A. Mr. Ahern put it to me, "would Mr. Gogarty be able to get this sort of money without anybody knowing?" That was in the context that he put the question to me. I was not sure whether there was a dual signatory needed or a single signatory needed at that time. I went and checked.

55 Q. What I am putting to you, is that that explodes your entire narrative to the Tribunal to the effect that you had been carrying out some kind of thorough bone fide investigation into what had happened in 1989?

A. No, I reject that completely.

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MR. COONEY: That's plainly a comment, Mr. Chairman, that couldn't be construed as a question in any circumstances.

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CHAIRMAN: Again you will have to reverse that into a question. I agree that's a comment.

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56 Q. MR. CALLANAN: Yes. Given that what you have described to the Tribunal as your state of knowledge, wasn't almost the first thing you would have ascertained, whether Mr. Gogarty was a signatory or a co-signatory on the JMSE cheques in 1989, Mr. Murphy?

A. Sorry, what's the question, Mr. Callanan? Can you repeat the question?

57 Q. The question is, was not virtually the first thing that you would have ascertained, if you were genuinely carrying out an inquiry into what had happened in 1989, was whether or not Mr. Gogarty was a signatory or a co-signatory on JMSE cheques in 1989?

A. Yes, I found this out in the week between my two meetings

with Mr. Ahern.

58 Q. But it wasn't something you had inquired into until you met Mr. Ahern; isn't that so?

A. That's correct, yes. As I said we dismissed it as lies, the whole thing. I knew that I wasn't involved in this meeting. I hadn't been there, and the suggestion, as I have repeatedly said in my evidence, that was in the media at the time that we paid a bribe to somebody to obtain planning permission, I dismissed totally as - I dismissed the shots and the damage and the vandalism and everything.

59 Q. You don't think it is in anyway odd that this was something you hadn't checked until you met Mr. Ahern for the first time?

A. No, as I said the full and thorough investigation was put in train afterwards.

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CHAIRMAN: I wonder might I intervene here just to inquire one thing? Mr. Gogarty at this stage was the Chairman of the company. Had you at that time any --

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MR. COONEY: At what time, Mr. Chairman?

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CHAIRMAN: At the time the payment was made, in June. He was still Chairman of the company?

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MR. COONEY: Yes.

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CHAIRPERSON: Now, the company would have, correction, the banks would have had a mandate for cheque signature by various members of the staff, did you, did it ever occur to you that he didn't have a mandate, that the Chairman of the company didn't have a mandate? Because it would appear to

me what the query would have naturally been was; did it require two signatories? I can well understand, I can well understand that, but can you be in any doubt that a Chairman of the company would have a mandate? It may be your company hadn't.

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MR. COONEY: With respect, Mr. Chairman, where do you get that information from?

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CHAIRMAN: I don't get it at all, from the standard of an officer of the company, a Chairman of the company, does he not have a mandate?

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MR. COONEY: It depends how many officers there are.

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CHAIRMAN: All right. Let him tell me.

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MR. COONEY: Yes.

A. Yes, Mr. Chairman, I think that Mr. Gogarty still, in, was Chairman at the time. It would have been within my knowledge that he would have been a cheque signatory, but as I explained to Mr. Callanan, my investigation at the time was whether one or two signatories were needed. Okay, Sir?

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60 Q. MR. CALLANAN: And we know then that you went back to Mr. Ahern on the 1st of July, 1997, and you were able to assure him that following further checks there was no possibility whatever of the monies having been paid out of JMSE?

A. No, I think I told him that Jim Gogarty was a second signature, and I checked again with my father, I may have mentioned Frank Reynolds, and that we were satisfied that

no payments had been made.

61 Q. Didn't you give Mr. Ahern an unreserved and unqualified assurance that the monies had not been paid out of JMSE?

A. I said as far as I was concerned and as far as the people that I discussed it with were concerned, no monies had been paid from JMSE.

62 Q. That's the first occasion on which you have sought to introduce that qualification.

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MR. COONEY: That's entirely incorrect, Mr. Chairman.

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CHAIRMAN: All right.

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MR. COONEY: Mr. Callanan is cross-examining Mr. Murphy on a wrong basis. Mr. Murphy's evidence has been and always has been, that it wasn't until sometime in July, August of 1997 that he discovered that the funds which had been paid to Mr. Burke actually came from JMSE, until that time, and he has been consistent in his evidence, he was unaware that funds had been taken from JMSE to give to Mr. Burke.

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MR. CALLANAN: Can I put to you what Mr. Ahern told the Tribunal, and it wasn't challenged. It is at page 17 of Day 50.

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CHAIRMAN: 70 or 17?

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MR. CALLANAN: 17, Sir.

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CHAIRPERSON: 17.

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MR. CALLANAN: It is the answer to question 50 on page

17.

"He stated in effect that you --

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MS. DILLON: Which question?

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MR. CALLANAN: It is question 50.

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MR. COONEY: Sorry. Yes, thank you.

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MR. CALLANAN: "He", meaning you, Mr. Murphy, "stated in effect that there had been his father and his company had

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A. Sorry, Mr. Callanan, for interrupting you, but what I have here, going from page 14 to page 20.

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MR. CALLANAN: Sorry?

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MS. DILLON: Apologise. (Document handed to witness).

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MR. CALLANAN: The relevant part of Mr. Ahern's answer, Mr. Murphy, is: "He stated in effect that there had been, his father and his company had, he, one of the main issues in the meeting was, and I have to say I was somewhat relieved when he stated it, was that he had - that he had gone back and checked and double checked, because all during the first meeting I had quizzed him as to whether or not it was possible that any money could have gone out of the Irish dealings without him or his company knowing it, that perhaps Mr. Gogarty could have taken money out of the company without anybody knowing it and he categorically stated that without --

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MR. COONEY: He goes on.

MR. CALLANAN: " The second meeting confirmed this as far as he was concerned, in that he had spoken with both his father, in relation to meetings and that, but particularly he mentioned Frank Reynolds to me, even though I don't mention his name in the statement that's who he was referring to, that he had double checked with Frank Reynolds as to whether or not any money or any cheques could have been paid out of their company or Irish dealings, and he stated categorically that this was not the case"?

A. Yes, correct.

63 Q. And therefore you were offering Mr. Ahern, as the Chairman of JMSE, the assurance that the monies couldn't have come from JMSE resources; isn't that so?

MR. COONEY: Sorry, he didn't say that. He said that insofar as his checking went it established that the monies had not come from JMSE.

CHAIRMAN: But, Mr. Cooney, the text is there and that is not the text. "He categorically", the phrase is used "He categorically". "Perhaps could have taken money out of the company without anybody knowing" - that's the premise on which the inquiry - "he", the witness, "categorically stated that could not have happened. The second meeting confirmed that as far as he was concerned, in that he had spoken to both his father in relation to the meetings and that, but particularly he mentioned Frank Reynolds, even though I didn't mention - as the one he was referring, and that he had double checked with Reynolds as to whether or

not any money or cheques could have been paid out of their company or Irish dealings and he stated categorically that this was not the case".

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Now, I cannot think of a more categorical statement by Mr. Ahern. Let me be clear about it, it is Mr. Ahern that's making that statement. But that is what, according to Mr. Ahern, this witness conveyed to him.

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MR. COONEY: But he also said to him, Mr. Chairman, could I draw your attention to this phrase which is a qualifying phrase in that answer, it is four lines up, it is at line 28 on page 17, "The second meeting confirmed this so far as he was concerned", and then he goes on to say that he checked with his father and Frank Reynolds and what he was saying to Mr. Ahern was as far as he was concerned and on the basis of the information which he received from Mr. Reynolds and his father, no payment had been made from the companies accounts. That is the reality.

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CHAIRMAN: This is a categorical assurance by a man in authority.

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MR. COONEY: By somebody who said, and the basis of his categorical assurance was set out by Mr. Ahern there, "as far as he was concerned, and on the basis of the checks which he made". Now, Mr. Chairman --

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CHAIRMAN: That is precisely what it said. But this witness is now being cross-examined about the nature of his checks, and having regard to the fact that he gave a categorical assurance of what's under consideration.

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MR. COONEY: No, Mr. Chairman, he is not being cross-examined about the nature of the checks, it is being put to him he gave a categorical assurance without stating the basis upon which he gave that categorical assurance. However, Mr. Chairman, I am not going to pursue the matter, if that's your view of the matter so-be-it.

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CHAIRPERSON: It is not my view, it is what's on the record at the moment. What more may come, I do not know. At the moment that's the record.

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64 Q. MR. CALLANAN: And what I want to ask you, Mr. Murphy, is how you could conceivably have offered those assurances or any assurances to Mr. Ahern in a context where you went straight from that meeting in Fitzers to ask Mr. Copsey whether it was possible that a payment of this kind had in fact been made? Can you offer any explanation to the Tribunal in relation to that glaring anomaly in the evidence, Mr. Murphy?

A. No, I dispute your words, "glaring anomaly". I don't dispute this part of Dermot Ahern at all. I said that I checked and double checked with my father and Frank Reynolds, and I decided then that the matter was still in the air. Here was now a Government Minister, he had previously been sent by the prospective Taoiseach of the country and I decided to go and double check again with Roger Copsey.

65 Q. But you just offered him assurances that these payments had not come from the company?

A. As I knew at the time.

66 Q. So as you made those, gave those assurances to Mr. Ahern

you were planning to head off immediately after the meeting and go and talk to Mr. Copsey?

A. That's what I did.

67 Q. And your, you are asking the Tribunal to accept that you were bona fide in your dealings with Mr. Ahern and you were bona fide in the inquiries you say you carried out into the payment to Mr. Burke in 1989?

A. Everything I said to Mr. Ahern at the time was told in good faith.

68 Q. Just in case there is any doubt about this, can I put it to you, Mr. Murphy, that you were privy to and actively involved in and present for the payment to Mr. Burke, and that you knew all about it from the outset?

A. Totally incorrect. As I have already given in evidence, Mr. Gogarty has changed the date of that meeting three times. I have given a full explanation as to my whereabouts on the 8th of June, on the 10th of June, which is in his affidavit, I was at a funeral, and the following week when he changed it for a third time, I was back in London. I knew I had no hand, act or part in this payment to Mr. Burke and did not know about it.

69 Q. And you are saying the first you knew of the possibility of a payment to Mr. Burke having come from JMSE resources are, from an internal source, when you spoke to Mr. Copsey on the 1st of July, 1997?

A. Incorrect.

70 Q. Incorrect?

A. The first I knew about a payment, he didn't, as I have given in my evidence, Mr. Copsey was not specific, Mr. Burke or any politician or any political party, he said a political contribution.

71 Q. And on the, taking your evidence at its best, Mr. Murphy,

when you first got the wind of the possibility of a payment having been made to Mr. Burke from Mr. Copsey, can you explain to the Tribunal why you didn't ring Mr. Ahern back immediately and say, "look, something has come up, the assurances I gave may need to be qualified, there may have been a payment. Put things on hold and I will come back to you with confirmation"?

A. Because I wanted to put the whole thing together. I wanted to put the whole scenario together, which required a complete detailed investigation, and to put the whole thing together.

72 Q. Can I suggest to you that if you were really carrying out the kind of investigation that you describe, that you and Mr. Ahern would have had a common interest in getting to the bottom of this and you would have rung him immediately to say that the assurances which you had given him might turn out to be incorrect?

A. No, as I said, and I have given evidence here, my priorities had changed, I had difficult personal circumstances, I had a business to run and I was constantly over and back in consultations to my solicitors. Numerous I think letters went out to the media, we were trying to protect JMSE's good name, there was a lot of events happening at the time and my priorities had changed.

73 Q. A lot of those events were related to dealing with or rebutting the allegations in relation to a payment to Mr. Burke; isn't that so?

A. They were, correct, yes. That I was involved in the payment or that it was paid as a bribe.

74 Q. Was that the primary reason that you came to Dublin in around the 1st of July of 1997?

A. I had a business meeting on the 1st of July of 1997.

75 Q. Well --

A. I don't know if I had a consultation, I would have to check with my solicitors's memo then, but I came on business.

76 Q. Well, we know you met Mr. Ahern, we know you met Mr. Copsey, you may have met your solicitors, can I suggest it was a matter of considerable concern to you at the time?

A. The, which matter?

77 Q. The allegations being made about a payment from JMSE?

A. Yes, things were starting to steam roll at that time.

78 Q. Yes, and it is something that would have taken up a good deal of your time over this period?

A. It took up a fair deal of my time. I was constantly over and back, but as I say, I still had a business to run in England and had family priorities as well.

79 Q. And you were unable to find five minutes prior to the 10th of September on your account, to ring Mr. Ahern to tell him, "Look there has been a terrible mistake"?

A. No, Mr. Callanan, I disagree. I wanted to put the whole thing together, the whole picture and the whole scenario which required the uncovering of a lot of documents before I got back to Mr. Ahern. My priorities had changed. Mr. Burke came out and made a public statement that he did receive the monies in early August, 7th or 8th of August, and my priorities had changed, circumstances, then when Mr. Ahern made contact with me on the 10th - I availed of that opportunity to explain to him then.

80 Q. Well, in your case the jigsaw had fallen into place in mid-August, can you explain why at that stage you didn't see fit to tell Mr. Ahern, fit to tell Mr. Ahern that the assurances which you had given to him in relation to Mr. Burke's fitness for office and the formation of a government on two separate meetings were completely

incorrect?

A. Sorry, you have a lot of things in that, can you put them to me one at a time?

81 Q. Why didn't you then, on your case when the jigsaw had fallen into place, why didn't you then ring Mr. Ahern and tell him that the representations you had made, the assurances you had given him were completely incorrect?

A. Because Mr. Burke had come out with a statement admitting that he had got the £30,000 from JMSE funds and it was something, yes it was something that did concern me, but when Mr. Ahern phoned me on the 10th I clarified it with him.

82 Q. But your attitude then was, that Mr. - since Mr. Burke had admitted the payment in his press statement on the 7th of August, that that should be good enough for Mr. Ahern?

A. That coupled with all the other issues. I have said my priorities had changed, I had personal family problems and trying to run a business, meeting with my solicitor, trying to protect our good name against these false and unfounded allegations, there was a lot of things happening at that time.

83 Q. Can I suggest to you, Mr. Murphy, that if you were genuine in your evidence, that embarrassment or self respect alone, would have made sure that you rang Mr. Burke at the very latest, sorry Mr. Ahern, at the very latest at the date of Mr. Burke's press statement of the 7th of August?

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MR. COONEY: With respect, Mr. Chairman, that's not a proper question in cross-examination, that has nothing to do with fact, it is about a witness' own regard for himself, it is simply outside the proper remit of the cross-examination.

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CHAIRPERSON: I think it goes to his credit and he is entitled to be asked it.

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MR. COONEY: May it please you.

A. Sorry, could you repeat the question?

84 Q. MR. CALLANAN: Yes, I will do it this way, Mr. Murphy.

Did you not feel in anyway embarrassed that you had given assurances on two occasions to someone who was now a Cabinet Minister in relation to a payment not having come from JMSE resources and the recipient of that payment had since made a public statement on the 7th of August admitting to getting the money, was that not something you found acutely embarrassing?

A. No, not at that time. As I say my priorities had changed. Events were happening very, very quickly. That opportunity was afforded to me within four weeks by Mr. Ahern, contacted me and I fully informed him then, I said it was something that was in the back of my mind and I was glad to avail of the opportunity to tell him.

85 Q. And you didn't feel as of the date of Mr. Burke's statement of the 7th of August, that you owed Mr. Ahern an explanation?

A. I did owe him an explanation, and I gave him the explanation on the 10th of September.

86 Q. Would you accept you owed him a prompt explanation?

A. I accept I owed him an explanation to correct what I had told him previously, and I did that.

87 Q. Would you accept that you owed him a thorough explanation?

A. I accept that I owed him an explanation and, from the investigations that I carried out and I did so.

88 Q. So at this time, Mr. Murphy, the only public attributable

public statement from JMSE comes in the letter of Fitzsimmons Redmond to Gore and Grimes, Mr. Burke's solicitors, of the 8th of September; isn't that so?

A. Yes.

89 Q. That's the only attributable public statement, and that statement was read to the Dail by Mr. Burke in the course of his personal statement on the 10th of September; isn't that so?

A. That's correct, yes.

90 Q. And Messrs., I just want to put this to you, I am sorry I should have arranged for a copy.

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MS. DILLON: We have a copy. This is the Dail statement, we will give a copy to the witness.

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MR. CALLANAN: Page 627. And - what Mr. Burke reads out is firstly a letter from Gore and Grimes, his solicitor, to Fitzsimmons Redmond on the 4th of September of 1987, and it raises three questions.

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CHAIRMAN: Mr. Callanan, I wonder would you tell me in the Burke statement, that's the Dail version of it, where that occurs?

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MR. CALLANAN: It is page 627, Sir, the first column. The first document is the --

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CHAIRMAN: Yes, I have it. Thank you.

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91 Q. MR. CALLANAN: And the reply isn't dated there, but on the previous page Mr. Burke refers to that as a reply of the 8th of September, and the first question was whether you

were present in Mr. Burke's house at the time Mr. Gogarty handed a political contribution of £30,000, and Fitzsimmons Redmond on your behalf say: "Our client was not present in your client's home when your client met with Mr. James Gogarty".

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Then the second question is "whether Joseph Murphy had ever met Mr. Burke, and if so when and where?" And the answer to that question is "No".

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And the third question which is, "whether the Murphy interest has been able to identify the source of the payments", this is the relevant response your solicitors write: "On the third question --

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MR. COONEY: Sorry, with respect, Mr. Chairman, the third query is in a different form, "We would be very much obliged if you could let us know whether your client has been able to identify the source of payments to our client and whether there are records of these payments, and if so you might be good enough to let us have a breakdown of the records of the payments", that's the question contained in the letter of Gore and Grimes on the 4th of September.

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MR. CALLANAN: Yes, I hope I didn't misrepresent that. "The Talbot Street branch" "one cheque for £20,000 and a second for £10,000, the cheque stubs in relation to both cheques say "cash". We presume these cheques relate to the £30,000 at issue, however following inquiries with the AIB they have been unable to provide any detailed information in relation to same and we do not have a record in relation to paid cheques".

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Now, what I wanted to ask you about that, Mr. Murphy, is --

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MR. COONEY: Does the witness have copies of those letters in front of him, Mr. Chairman?

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MS. DILLON: Not copies of the original letters, he has the Dail statement of Mr. Ray Burke, if Mr. Cooney is satisfied with that?

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MR. COONEY: I think with respect he should have copies of the letters from Gore and Grimes and copies of our letters.

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MR. CALLANAN: I don't think I have ever seen them.

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MS. DILLON: I don't know whether these have in fact been discovered to the Tribunal. I have a recollection Mr. Burke certainly may have discovered them, perhaps Mr. Cooney can check --

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MR. COONEY: We can make available --

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CHAIRMAN: Would you be kind enough to make them available, Mr. Cooney. If you have them we will have them copied.

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MR. COONEY: We have discovered them but we have further copies.

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CHAIRMAN: That's right, could you give it to our secretary and we will have it copied. I will break for

five minutes to get the copies circulated, but only for five minutes now, that's all.

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

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CHAIRMAN: I think we now have a copy for everyone in the house who needs one and we will proceed.

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92 Q. MR. CALLANAN: I think you have got the letters, Mr. Murphy?

A. Just about to get them, Mr. Callanan. (Documents handed to witness).

93 Q. And obviously Mr. Burke's statement to the Dail was a matter of enormous public controversy; isn't that so?

A. Correct.

94 Q. And the case which has been made by the Murphy interest in the Tribunal is that this was a payment made solely on the initiative of Mr. Gogarty?

A. Correct.

95 Q. Why didn't you say that in September of 1997?

A. Why didn't we say it where?

96 Q. Either in your solicitor's letter or in a public statement, why didn't you say that Mr. Gogarty was somebody who made this payment on a frolic of his own, that he was a man who had tried to extort £400,000 from you in the Berkley Court in February of 1992? Why didn't you say any of that, Mr. Murphy, it seems extraordinary?

A. First of all, this is a letter from one solicitors' firm to another solicitors' firm and was answering three specific questions.

97 Q. Yes?

A. If you are asking me why we didn't make a public statement about the issue in September?

98 Q. Yes?

A. We would have received legal advice, we were in constant communication with our solicitors at the time and we would have sought legal advice on that.

99 Q. The first assertion, first public assertion by JMSE that Mr. Gogarty was, I know there is a dispute about the phrase, but "on a frolic of his own", was some days into the hearing of this Tribunal; isn't that so?

A. May well be the case, yeah, I am not sure when that word was used. It was used sometime near the beginning of the Tribunal, yes.

100 Q. And if, as of the date of Mr. Burke's statement, here we have Mr. Gogarty making what you say are utterly false and scurrilous allegations against JMSE?

A. Vicious, evil, lies.

101 Q. And you didn't respond. Yes?

A. I think you put to me an article yesterday, Mr. Callanan, in the Irish Times, where it said that he was trying to extort money from his employers, so you are incorrect in your earlier part.

102 Q. You see, I want to suggest to you that it is surprising that Fitzsimmons Redmond in their letter --

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MR. COONEY: Again, Chairman, he can not ask questions prefaced with remarks like "it is extraordinary", "it is remarkable", "it is inconceivable", that's argument and it is not fair to the witness in my respectful submission.

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103 Q. MR. CALLANAN: I will try to do it another way, Sir, I don't want to - A payment from JMSE funds of £30,000 is

admitted in the letter of Fitzsimmons Redmond?

A. Correct.

104 Q. And that was a matter that was going on the public record; isn't that so?

A. Correct.

105 Q. Now, why did - did you at that time believe that this was a payment made by Mr. Gogarty on a frolic of his own, entirely on his own initiative without the consent or involvement of any other senior figure in JMSE?

A. Did we know? Sorry?

106 Q. Yes?

A. Yes, of course, yes.

107 Q. Well, why on earth would you not say so, if that was your case, Mr. Murphy?

A. Say so to who?

108 Q. Make a public statement, this was a public statement, your solicitor's letter was a public statement. I am asking you why did you not make a public statement?

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MR. COONEY: With respect, Chairman, this cross-examination is premised on a false basis. It wasn't a public statement. It was a letter written by one firm of solicitors in reply to another firm of solicitors, there was no indication in the letter from Gore and Grimes that these letters were going to be quoted by Mr. Burke in the Dail. We don't object to the fact that they did it, but Mr. Callanan's premise is wrong, Mr. Chairman.

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CHAIRMAN: Mr. Cooney, the Caseview in front of me says as follows: .

"Question: Now, why did you at that time" - sorry - "Did you at that time believe that this was a payment made by

Mr. Gogarty on a frolic of his own, entirely on his own initiative, without the consent or involvement of any other senior figure in JMSE?"

"Did we know? Sorry, yes". "Yes, of course" is the answer - So the premise on which the whole thing is based on is that JMSE did know, and then he is asked; "Why on earth would you not say so if this was your case?"

Answer: Say so to who? Question: Make a public statement, this was a public statement, your solicitor's letter was a public statement, I am asking you why did you not make a public statement?"

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It appears to me that the premise of the question is clear. And the witness is perfectly competent to reply to it.

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MR. COONEY: Sorry, Mr. Chairman, you have just read out Mr. Callanan's question in which he says this letter was a public statement, I have said to you in the clearest language possible that it was not a public statement. Now, if you, contrary to what appears to be - please let me finish, Mr. Chairman; if you believe that a letter from one solicitor to another solicitor in reply to a letter is a public statement, I can't put the matter any further.

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CHAIRPERSON: Let us clear this matter up. It is perfectly true to say that that letter was not a public statement at the time it was written, but it was read into the record of the Dail two - it is dated the 5th of September, the actual reply is dated the 5th of September. On the 10th of September it is read into the Dail, it couldn't be more public.

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MR. COONEY: Yes, it becomes a public statement because the recipient of the letter decided to use it in the course of his statement which he was making in the Dail, and incidentally may I just draw your attention to this fact, Mr. Chairman, that this letter, that this correspondence was not a part of Mr. Burke's statement in the Dail, it was a matter which he opened in answer to the questions that were put to him after he made his statement to the Dail. I am merely drawing --

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CHAIRMAN: I stand corrected, Mr. Cooney. You are correct.

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MR. COONEY: All I cannot understand, Mr. Chairman, is how private correspondence becomes transformed into a public statement, Mr. Chairman, that's simply can't be.

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CHAIRMAN: Mr. Cooney, isn't it quite clear that private correspondence came into the public arena, and that what the question is addressed to is in the context of that correspondence being in the public arena, why was no rebuttal made? Now, I don't know why.

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MR. COONEY: A rebuttal of what, Mr. Chairman?

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CHAIRMAN: I beg your pardon, why - not a rebuttal, why was a statement made "it was on a frolic of his own"?

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MR. COONEY: Why wasn't a public statement made, is that the question?

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CHAIRMAN: That's the question, I am not asking a question. That is the essence of what is being asked.

MR. COONEY: That wasn't the question which was asked, Mr. Chairman. The question which was asked was premised on the basis that a private letter became a public statement, or should be regarded as a public statement, that cannot be, Mr. Chairman, with respect. However, I am not going to argue the matter.

109 Q. MR. CALLANAN: Very briefly, Mr. Murphy, we can perhaps clear this up; as of the date of the Fitzsimmons Redmond letter of the 8th of September, there had already been, Mr. Burke's statement of the 7th of August; isn't that so?

A. Correct.

110 Q. And this was one of two letters sent by Mr. Burke's solicitors in which it is stated that in the course of their, in the course of preparing defamation proceedings against Mr. Gogarty and asking them, asking both the Baileys and the Murphys to confirm what their position is; isn't that so?

A. I don't know if, I don't know about the Baileys.

111 Q. Well, all right. You received this letter. You knew it was a letter that was likely to see the light of day by one means or another, given that it was in connection with defamation proceedings that Mr. Burke proposed taking against Mr. Gogarty; isn't that so?

A. Probable, possible, yes.

112 Q. And can I suggest that you were aware at the time that that letter was written of the possibility that it would be used by Mr. Burke or referred to by Mr. Burke in his statement to the Dail of the 10th of September two days later?

A. That was possible, yes.

113 Q. Yes. And in fact it was used; isn't that so?

A. Correct.

114 Q. And that creates a situation in which your solicitors are publicly accepting that the JMSE, the £30,000 was paid to Mr. Burke from JMSE resources, and what I want to put to you is this; that that put you, put the Murphys or JMSE in a situation of some odium or invited public obligor, isn't that so, that you were accepting there was a payment from JMSE of £30,000, that was something which was not going to do your reputation or the reputation of JMSE any good?

A. Correct.

115 Q. Didn't it cry out for an explanation, if there was an explanation at the time, Mr. Murphy?

A. It cried out for action, and we did action on it at the time, with numerous consultations about the various newspaper articles, and we acted on those articles, that was the priority at the time it was not to make a public statement. We weren't obliged to make a public statement, we were protecting our good name and reputations at the time, and various letters went out to various newspapers, and as I say we were on top of our heads at the time, a public statement was not a priority, we weren't obliged to make one either.

116 Q. I want to suggest to you this was part of a deliberate strategy of temporising of waiting and seeing to enable you to formulate a case in relation to the payments which avoided any responsibility attaching to you or to your father, to Mr. Reynolds or to Mr. Copsey?

A. That's absolute rubbish, Mr. Callanan. We wouldn't have written to various members of the media, various newspapers if that was the case.

117 Q. And that if you had believed as of the 10th of September that Mr. Gogarty was on a frolic of his own, that you would have said so, Mr. Murphy?

A. No, that's absolute rubbish, rubbish, I don't accept anything, don't accept that at all, Mr. Callanan.

118 Q. And Mr. Grehan in his evidence at Day 98, page 88 said that Mr. Reynolds had told him that --

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MR. COONEY: We need to see the transcript.

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MR. CALLANAN: Yes, very good.

A. Are you finished with these ones, yeah?

119 Q. MR. CALLANAN: Yes.

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MR. COONEY: Perhaps Mr. Callanan would tell us whose examining at that stage?

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MR. CALLANAN: I am not certain, all I can say is it is page --

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MR. COONEY: That should be, particularly in relation to Mr. Grehan's evidence, that would need to be established.

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CHAIRMAN: Just hold on a moment, we will find it in relation to looking at the text.

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MR. COONEY: Yes.

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MR. CALLANAN: I think it is the direct examination.

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CHAIRMAN: Direct examination, Mr. John Gallagher according to the text.

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MR. COONEY: Yes.

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MS. DILLON: If Mr. Callanan could just wait one moment until we get the witness a copy of the transcript.

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120 Q. MR. CALLANAN: Yes, I am sorry.

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Now, it is question 363, which Mr. Gallagher asks Mr. Grehan and Mr. Grehan says of Mr. Reynolds, "He was doing a lot of work for Mr. Gogarty at that time, and one of his functions was going to the banks and what not, and there was a possibility that he may have collected that money with Mr. O'Keeffe but he wasn't one hundred percent sure of that. Question: When did he say that? Answer: Probably 1996 or 1997, I would have thought when it came up".

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And you had discussions with Mr. Reynolds, but Mr. Reynolds never said anything like that to you, at least until he was preparing his statement, Mr. Murphy?

A. Sorry, I thought you were still --

121 Q. Sorry, no, what I am saying is that was Mr. Grehan's evidence to the Tribunal. What I am putting to you is that Mr. Reynolds never said that to you, at least until the time when he was preparing his Statement of Evidence for the Tribunal?

A. Never said what to me? Sorry, I am a bit --

122 Q. That he may have gone with Mr. O'Keeffe to collect the money, the £20,000 --

A. No, Mr. Grehan is getting '96 and '97 obviously confused here. It wasn't until - sorry, I am a bit lost on what you

are asking me there.

123 Q. Well, what I am asking you is did Mr. Reynolds ever tell you that he might have gone with Mr. O'Keeffe to collect the money prior to any conversation you had at the time of Mr. Reynolds making his Statement of Evidence to the Tribunal in December of 1998?

A. Mr. Reynolds may have said that he travelled to the banks on numerous occasions but he can't remember this particular occasion, Mr. Callanan.

124 Q. Well, when did he first say that to you, Mr. Murphy?

A. I think that may be in or around the time this Tribunal was being set up. When we met with Mr., no I think it might have been earlier, an earlier consultation, maybe with Mr. O'Keeffe, some time in 1997.

125 Q. I see. And where was that, where did that take place?

A. We had a consultation in Mr. Fitzsimons' office on the 20th of August of 1997.

126 Q. And did you express surprise or concern that that wasn't something he had mentioned to you earlier?

A. It may have come up, I can not pinpoint whether it specifically came up on that day, I would have to check the internal memos of that, but Mr. O'Keeffe may have brought that up at the time, that he thinks he remembers going down and may or may not, I don't think that Mr. O'Keeffe is fully sure whether it was Frank Reynolds or not, but Frank Reynolds usually went to the bank with petty cash and other things were taken out.

127 Q. Well, there are three relevant meetings or discussions in Mr., which Mr. Grehan made reference in his evidence and I just wanted to put those briefly to you.

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His, he told the Tribunal that he had a discussion or

discussions with Mr. Reynolds and Mr. Maher arising out of their meeting with Mr. Connolly in, I think it was, that was - Mr. Grehan perhaps thought it was July to December of 1996, I think it was probably earlier, March or April?

A. It was in March.

128 Q. And he said that Mr. Maher had told him that there was £30,000 going out of JMSE but that it was paid back within two weeks of its coming out?

A. Well, that's not true. I think if you go to Transcript 100, Mr. Grehan is confused on that and he admits that he might be mistaken, so if you can pick one part of Mr. Grehan's evidence out, you know, I can go to another part where he actually says he was mistaken. Mr. Maher couldn't have told him that at the time, he didn't know.

129 Q. When did you first speak to Mr. Maher about these allegations, the allegations of payment to Mr. Burke?

A. I think in or around 1997, in or around the time of maybe the May article, I may have said casually in 1996, "look at what Gogarty is up to now", something like that. I wouldn't have gone into any depth saying "look at the ridiculous allegations he has made", but I wouldn't have discussed them in depth until we started the investigation.

130 Q. Mr. Maher had been at one of the first meetings with Mr. Connolly; isn't that so?

A. There was only one meeting with Mr. Connolly.

131 Q. I think Mr. Connolly referred to two meetings, one with Mr. Reynolds on his own I think, one with Mr. Reynolds and Mr. Maher?

A. No, there was one meeting in the JMSE offices in Santry with Mr. Connolly, Mr. Maher and Mr. Reynolds.

132 Q. But Mr. Maher in any event had attended that?

A. He had, yes.

133 Q. And you are saying you didn't have any discussion with him in 1996 other than of an entirely casual nature?

A. No, the content of that meeting was passed to me by Mr. Frank Reynolds.

134 Q. And Mr. Grehan in his evidence also said that, he referred to a conversation in June of 1997 with I think, I think you were on the intercom telephone, intercom conversation involving yourself, Mr. Reynolds and Mr. Grehan?

A. On the morning of the first meeting with Mr. Dermot Ahern, yes.

135 Q. And Mr. Grehan says that the assurance that he was given or the confirmation he received on that occasion was that no payment had been made for planning purposes to Mr. Burke?

A. That's completely untrue. Again if you go to Transcript 100 you will see Mr. Grehan under cross-examination said he may have been mistaken. It is absolutely inconceivable that I would tell Mr. Grehan one thing, knowing that he was in discussions with Mary Harney and go and tell Mr. Ahern the same day something different, when both parties were discussing a coalition. As I said, you pick one part of Mr. Grehan's evidence out, I will go and pick another bit out where he says he could be mistaken.

136 Q. Did you ever make an assertion of that kind, that the, while not denying that the monies had been paid but suggesting that it wasn't a bribe?

A. Absolutely not.

137 Q. Could I just ask you to look at the transcript for Day 111 at page 136?

A. Is this a different book, is it?

138 Q. It is yes, it is actually your own evidence from last Thursday.

MR. COONEY: Page?

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MR. CALLANAN: It is page 136.

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139 Q. MR. CALLANAN: If you just have it there?

A. Sorry, Mr. Callanan?

140 Q. Page 136, question 603, and Ms. Dillon is asking you about

the meeting with Mr. Ahern and the three questions, you dispute the contents of the questions put, the three questions - "But the first question he put to you was; did JMSE or any related company pay any money to Mr. Burke?

Answer: That's correct. Question: In the light of the evidence that had been, that you have given here to the only check that was ever conducted good, bad or indifferent related to JMSE, how were you in a position to answer that question?" And the answer you give doesn't seem to be an answer to the question you are asked; "As far as I was concerned the allegations were made as a bribe for planning corruption, and as far as I was concerned it was rubbish".

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Can you offer an explanation as to why you tendered that answer to Ms. Dillon, Mr. Murphy?

A. If you just let me read it?

141 Q. Yes. (Document handed to witness).

A. I think that's a reasonable answer, Mr. Callanan.

142 Q. Can I suggest to you it is quite similar to what Mr. Grehan says that you told him in June of 1997?

A. Mr. Grehan has admitted in Transcript 100 that he could be mistaken and he is mistaken.

143 Q. I think Mr. Grehan also said that you said at that meeting or in that conversation that you were taking charge of dealing with the matter?

A. Not at all, not at all.

144 Q. But I think in practice you accepted that you were doing just that?

A. No. I was dealing with Mr. Dermot Ahern, I was meeting him later on that day.

145 Q. But I think you said that in dealing with these allegations you had taken the main role along with Mr. Reynolds, I think you told us that yesterday?

A. Myself and Mr. Reynolds had taken the main role in the investigations, yes.

146 Q. And Mr., the third discussion to which Mr. Grehan referred was in Santry over the period of July 19 - July to October of 1997 in relation to the Gogarty allegations, and it was a discussion which didn't involve you, it was between Mr. Grehan and Mr. Reynolds and possibly Mr. Maher, and what was discussed on that occasion was that you couldn't have been at the meeting at which the payment was made to Mr. Burke as you were out of the country?

A. I wasn't at that meeting.

147 Q. No, I know that, I want to ask you, was that something which --

A. Mr. Reynolds may well have conveyed that to Mr. Grehan, yes.

148 Q. Was that something you were discussing in late '97?

A. Yes, of course during the course of the investigation between July and August, yes.

149 Q. Did your inquiries, either documentary or verbal, elicit the date on which the payment was made to Mr. Burke, or did you form a view in relation to that, Mr. Murphy?

A. No, it didn't elicit any date. The date that the 20,000 was cashed was on the 8th. When we received Mr. Gogarty's affidavit in, I think I stand corrected, was it October or

November of 1997? He put it at a couple or a few days after the 8th. Subsequently when we received the documentation in the Garda file we see that he had told Inspector Harrington that it was on the 8th, so we were concentrating our efforts in or around the 8th, 9th and 10th but as we all know Mr. Gogarty got up here on the stand and changed it again to the following week.

150 Q. I am not asking you, Mr. Murphy, for a commentary on what Mr. Gogarty's evidence was. We all know there was a payment made to Mr. Burke from JMSE monies; isn't that so?

A. That's correct.

151 Q. And from your inquiries on the JMSE side, forgetting what Mr. Gogarty was saying, did you establish on what date it was likely or dates it was likely that the payment was made to Mr. Burke?

A. No, we did not, not for definite. We could only go on the bank statements which showed the 8th of June, that both cheques were written out on the 8th of June. We are concentrating on the 8th of June, 8th, 9th, 10th of June. I think if you go and have a look at Mr. Connolly's notes that is in evidence to the Tribunal, you will see in his notes that Mr. Gogarty informed him that the meeting in Burke's house was the first week or ten days in June, that's what he told him.

152 Q. And I think you said at Day 111, page 126, apropos a phone conversation with Mr. Grehan.

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MR. COONEY: The reference again?

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MR. CALLANAN: Yes, I am sorry. 126 of Day 111, last Thursday again.

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MR. COONEY: Which question?

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MR. CALLANAN: Question 552.

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MR. COONEY: Thank you.

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153 Q. MR. CALLANAN: The series of questions begins at 550 from

Ms. Dillon: "You had a second telephone conversation with Mr. Grehan. I think it was put to Mr. Grehan by Mr. Cush in August of 1997", and she goes on at 552: "And can you tell us the purpose of that conversation? Answer: From memory now, I didn't have too many direct contacts with Mr. Grehan over the phone maybe it might have been a time when Mr. Reynolds was away or Frank was away on holidays. I would have told him I was astounded at what we had found out at the time about the payment to Mr. Burke".

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I want to suggest that was not something that was put in those terms to Mr. Grehan?

A. Of course it was.

154 Q. We can leave that. Now, can I just go back to one issue which arose yesterday, you said that Mr. Morrissey had been retained as a PR person for only a few months as of March of 1996. How long did he stay with, did that retainer continue?

A. I think that Mr. Morrissey had an earlier involvement with the JMSE companies in some exercise when we got the qualifying assurance, the ISO 9,000. I think we made contact with him in around March, was it March? April I said, I am not 100 percent sure because I think it was Frank Reynolds dealing with him, it only lasted a few months.

155 Q. So that retainer would have ceased at some stage towards the latter part of 1996; is that so?

A. Well, I don't think, it sort of ceased, I think it petered out. I think Mr. Morrissey left the particular company we were dealing with and joined another company and it sort of petered out. He was very busy at the time and he had some other important business. It was on a very, very small scale on that occasion.

156 Q. You see, one might have thought that if ever a firm needed a PR consultant it was JMSE at this time?

A. No.

157 Q. And did you have --

A. I never had any dealings ever in my life with PR consultants before this time.

158 Q. That was Mr. Reynolds?

A. No, as I said, Mr. - I think the actual firm that Mr. Morrissey was working with at that time had been retained on an earlier occasion to give some publicity to the fact that JMSE had got this quality assurance, which is an important part of our business. I think that in that early part of 1996 we had made contact with him again, I think that that contact petered out when Mr. Morrissey left that firm and subsequently joined another firm.

159 Q. I appreciate you are saying you didn't have any conversation with Mr. Morrissey yourself?

A. I may have one, but, I certainly didn't meet Mr. Morrissey until the beginning of this year.

160 Q. Are you aware whether Mr. Morrissey was involved in any discussions as to how Mr. Gogarty's allegations might be rebutted?

A. No, as I say it was an infrequent, I think that even Mr. Fitzsimons might have read from the initial contact over

this, though that was at a later period. I am trying -
you see I only met Mr. Morrissey, as I say, for the first
time this year, I am trying to piece together information
that I would have got from Mr. Reynolds, but as I say, the
contact with Mr. Morrissey petered out simply because I
think that he changed companies.

161 Q. If I could pass, Mr. Murphy, briefly to the matter of the
two telephone calls which were made to Mr. Gogarty on, at
around 2 am on Monday the 20th, 20th of June of 1994. You
told the Tribunal, Mr. Murphy, that in the course of the
second telephone conversation when you rang Mr. Gogarty
back, that you apologised to him?

A. I did, towards the end of the call. He had given out to
me that I disturbed or upset his wife, Anna, and I
apologised.

162 Q. I want to suggest to you that's not the case and was never
put to Mr. Gogarty?

A. I did apologise to him, and I have apologised to Detective
McEaney. I have apologised earlier on when Ms. Dillon
was cross-examining me and I will apologise again now.

163 Q. I want to suggest you have never ever tendered an apology
to Mr. Gogarty?

A. I did.

164 Q. Your saying, why did you ring him back, Mr. Murphy, after
the first conversation? Why did you ring him back?

A. As I explained earlier on, it is something I shouldn't have
done, I did it. I think Mr. Gogarty put down the phone on
me on the first occasion, and I just decided to ring him
back, as I say I shouldn't have done it.

165 Q. It was never suggested prior to Thursday, Mr. Murphy, that
you tendered an apology to Mr. Gogarty?

A. I did apologise to Mr. Gogarty. I think when Mr. Gogarty

was up here on the stand he may have said, and I stand corrected on this, that I apologised to his wife, Anna, that night. But I apologised, I apologised to Mr. Gogarty for both of them, he had said his wife was upset and I said "I apologise about that".

166 Q. I don't believe that Mr. Gogarty ever said that, Mr. Murphy, and --

A. As I say I stand corrected and maybe we can check the transcripts, but I simply did apologise to Mr. Gogarty that night.

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MS. DILLON: I think in fairness to the witness, Sir, in Mr. Gogarty's statement to the Gardai he makes reference to the fact that this witness made a form of an apology in relation to Mrs. Gogarty, that's from recollection only. I think that's in Mr. Gogarty's original statement to the Gardai.

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167 Q. MR. CALLANAN: I want aware of that. It certainly doesn't appear in Mr. Gogarty's evidence. And just very briefly, Mr. Murphy, you didn't accept service of the proceedings until such time as an Order for Substituted Service was obtained; isn't that so?

A. No, that's not correct, that's absolute rubbish. I have sat in here and listened to all that rubbish being talked about by Mr. Gogarty. I received I think, certainly two letters anyway, to some addresses and I passed them on to London firm of solicitors and I took advice from them at the time. Subsequent letters later on, the advice that the London solicitors gave to me, was to send it on to an Irish firm of solicitors, so the London firm of solicitors sent these on to Mr. Fitzsimons, I was not trying to avoid

or evade these proceedings in anyway, shape or form.

168 Q. There was no appearance on your behalf until such time as an Order for Substituted Service was obtained from the High Court in Dublin; isn't that so?

A. That's correct, yes.

169 Q. And there were repeated attempts to find you and to serve you with the proceedings; isn't that so?

A. Mr. Gogarty has come up here and given evidence that I was avoiding a summons server, I was not aware until hearing this, sorry maybe until it was mentioned in the, either the Garda file or Mr. Gogarty's statement, I am not sure which, but I was not aware at that time that there was somebody trying to serve me.

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MR. COONEY: Mr. Gogarty also said the summons server was bribing to effect service --

A. I was not aware at that time, Mr. Callanan. As I say I passed the various letters into a London firm of solicitors, who gave me advice at that time.

170 Q. MR. CALLANAN: Now, if I could turn, Mr. Murphy, briefly to deal with the evidence you have tendered in relation to your whereabouts at various times. I think you, in relation to May 1988 referred to handwritten costings for a job at, I think it was Ebrey bridge?

A. Correct.

171 Q. Have those been produced to the Tribunal?

A. No.

172 Q. And in so far as you say there were generally written up on a Friday, of course it is quite possible one could do them up the following week; isn't that so?

A. No, I reject your suggestion. I was on this job constantly up until, as I gave my evidence, Friday the 6th

of May.

173 Q. I think you said you were on this job from October 1987 to the 6th of May?

A. Sometime.

174 Q. 6th of May of 1988?

A. Sometime in or around that, maybe even before it.

175 Q. I want to go - it must have happened on occasion that you weren't there to do the costings on a Friday and you would have done the costings on a following week in that situation?

A. No.

176 Q. Would you accept that the year 1988 was a eventful year in JMSE?

A. From May or June onwards, yes.

177 Q. And your evidence is that you weren't in Ireland up to the date of the meeting of the 7th of June which you were appointed a director?

A. I have no recollection of being in Ireland up until that period, no. I can't find any documentation otherwise.

178 Q. And you have no documentation effectively, in relation to the period of two weeks when you say you were going around England with your father from the 9th of May of 1988?

A. No, I had no documentation of that period, no, but that was the case. I was in England during that period.

179 Q. I accept it relates to a period which is now ten years ago, but surely as a matter of administrative practice, the offices of Murphy Limited in London and of JMSE in Dublin, would have had to have some means of knowing where at any given time you or your father were to be contacted?

A. No, the evidence I have given is that we were in London, not the JMSE offices. If any call comes in for me to JMSE, up to this day Mr. Reynolds would take it. That is not

the case, Mr. Callanan, no.

180 Q. But there is no record either from hotel receipts that you have been able to get or from internal JMSE records, as to the whereabouts of you and your father over that two week period; isn't that so?

A. What you are suggesting now is a suggestion to prove my innocence. I was in England at the time.

181 Q. And we know from your supplemental statement, turning to 1989, Mr. Murphy, that on your own case, you were in Ireland for two periods of time, in the period 31st of May to 12th of June, 1989; isn't that so?

A. No, you are trying to twist that. I was in Ireland from the 31st of May to the 6th, the car hire shows I left back the car hire on the 6th and I returned again on the 10th. The document, the car hire shows I picked up a car on the 10th and I returned on the 12th.

182 Q. Yes?

A. You are trying to twist that, that I was in Ireland in between by using the 31st to the 12th, but in the intervening period I was back in England.

183 Q. Well, you anticipated me, Mr. Murphy, because I was going on to break it into the two periods to which you have referred?

A. I apologise for doing that, Mr. Callanan.

184 Q. Is that your evidence in relation to your return dates on each of those periods, is based on car hire documents; isn't that so?

A. That's correct, those are the dates I returned, and plus statements from Mr. Peter Mycroft and Mr. Derek Green.

185 Q. No flight records or anything of that kind?

A. If you go to Aer Lingus, which I did approach Aer Lingus, and they don't have documentation going back, I think what

I was told at the time was they find it lucky to get, go back on record six months, but the car hire, plus the statements with Mr. Mycroft and Mr. Green, shows quite clearly I was in England in the intervening period.

186 Q. And when did you begin that process of inquiry or investigation into what you could establish or show in relation to your whereabouts?

A. Gathered over a big period of time. I mean some of it was just luck. It was gathered in the 1987/1988 period, I mean the actual wedding was just a stroke of luck because I approached Michael Feeley who got married in Waterford and asked him if he was at Mrs. Flynn's funeral and he reminded me no, I was on my honeymoon, we got married the week before and I was able to piece it together. So we pieced it together over a long period of time.

187 Q. And that was a process of inquiry or investigation on your part?

A. It was a matter of extreme importance to me, Mr. Callanan.

188 Q. Yes.

A. I did not attend this meeting in Mr. Burke's house and it was a matter of extreme importance to me to find out my whereabouts and as I say, in that it was a stroke of luck that one weekend I was at a close friend's wedding and the following weekend I was at a funeral, of a woman I considered to be my grandmother, and I was able to piece it together.

189 Q. Yes. Of course in relation to the second of those events, the death of Mrs. Flynn, it was never specifically ruled out by Mr. Gogarty, that the visit to Mr. Burke could have taken place at a weekend; isn't that so?

A. Mr. Gogarty said in his affidavit, Mr. Callanan, that the meeting in Burke's house was a couple or a few days after

the 8th, so if we take a couple or a few to mean two or three you are putting it on the 10th and 11th which is Saturday or Sunday. He obviously changed it when he came up here and gave evidence.

190 Q. I think in your evidence to the Tribunal earlier, you said that you were in Dublin for personal reasons in January and February of 1989?

A. Correct.

191 Q. And you were there in, also I think in March of 1989?

A. Yes.

192 Q. Why were you there in March?

A. My mother had had a serious operation in late 1988 and she was in and out of hospital in those first three months.

193 Q. I see. And you, I think also said that you may have had occasion to travel to Dublin in April?

A. Yes.

194 Q. What was the purpose of that?

A. I don't know. It may be similar possibly, yes. I fully accept I was here in April, yes.

195 Q. And you said that you believed that you were in the United Kingdom up to the 31st of May of 1989?

A. Yes.

196 Q. And what was that based, how did you come to that conclusion?

A. I came to that conclusion, I asked Mr. Reynolds to have a look at the car hire and to see if I had any car hire in around those periods.

197 Q. I see. And we then come to the 31st of May to 12th June period, which is, as you say, in two blocks. You said then that you didn't return to Ireland until the end of September or the beginning of October?

A. That's from my recollection, yes, and as I say, trying to

piece together certain documentation.

198 Q. And how did you go about it for that period?

A. As I said, car hire.

199 Q. Yes. And why did you come to Ireland, the visit at the end of September, beginning of October, what prompted that?

A. I cannot say. As I said in my statement, that I obviously returned in the end of September, beginning of October, I may well have been in the Santry offices then, but the purpose --

200 Q. And we know you were here in November for the All Blacks rugby match; isn't that so?

A. That's correct.

201 Q. That's the time of the Burlington Hotel incident. Were you in Ireland in December can you recollect, of 1989?

A. Well, I don't know, you know? I was specifically asked for my movements between May and September. I may well have been, Mr. Callanan, I may well have been, yes.

202 Q. You see, but you have no specific memory of --

A. I probably was actually back for Christmas, maybe, yeah.

203 Q. Just a social visit or visits in December?

A. Probably back for Christmas as I said.

204 Q. You see, what I want to suggest to you is that it seems curious that over what was a very turbulent year for the company, 1989, you haven't referred at any time to going to the Santry offices of JMSE?

A. Mr. Callanan, this is - as I say, my mother who subsequently died, had been diagnosed with a serious, serious illness in December of 1988, she was in and out of hospital for a three or four month period. In the early part of 1989, my father himself was not well and he was in hospital, he was hospitalised twice, so for very, very personal reasons I would have been here, but I have no

recollection, there is nothing on file, there is no minutes of meetings which I asked Mr. Reynolds to check through in 1989. As far as I was concerned I'd attended four or five board meetings to support the new management in the latter part of 1988 and this management had been put in place, so I may have been in Santry on two occasions maybe at the most, maybe three.

205 Q. I think the only reference to it in your statement, your supplemental statement of the 16th of April of 1999, you say, and the second last paragraph, "I did not return again to Ireland", that's after you had left, " after the funeral of Mary Elizabeth Flynn that year until the end of September or beginning of October and may have attended the offices in Santry during this time, although I have no recollection of doing so"?

A. Yeah, I may well have.

206 Q. Yes, and I want to put it to you in the light of your role, and in the light of the events which occurred in 1989, that it simply is inconceivable that you weren't in Santry over that period?

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MR. COONEY: With respect, that's not a question, with respect, Mr. Chairman, that's an argument. Putting to a witness "it is inconceivable" and setting out a number of doubtful propositions to support that is not a question.

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CHAIRMAN: I think that's fair. You put it to him on a series of occasions that he was in Ireland, you got the answers and the reality of that is that they are questions going to his credit, and if you can't elucidate them by one further question or thereabouts you are going to have to call substantive evidence, if you want to challenge.

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MR. CALLANAN: I am happy to pass.

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MR. COONEY: Perhaps I could just raise a matter, if I may, that Mr. Callanan touched upon a moment ago? And it is, you will recall when Mr. Rigney gave evidence here last week, Mr. O'Moore said that he had no questions and this is what he said, "On the basis that all that Father Rigney is dealing with is Mr. Murphy Jnr.'s presence in or at this funeral and at the removal for the Saturday or Sunday and on the basis that Mr. Gogarty as long as the 24th of February of this year said the meeting in Mr. Burke's house certainly didn't take place on either of these days, it doesn't seem that I have any questions at all for this witness". That's what Mr. O'Moore is saying. A few moments ago, as far as I understood, Mr. Callanan was suggesting perhaps it may have taken place during those days and Mr. Murphy had the opportunity to be present.

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CHAIRMAN: The evidence is there of the funeral and the evidence is there as stated by Mr. O'Moore, and this was, I would have thought a thought that might have been, I don't regard it as having any great relevance, in the light of the - one must look at the overall pattern of the evidence. If you have corroboration, broadly speaking corroboration, as Mr. O'Moore's statement seems to me, nobody has ever suggested this was a Sunday, Saturday or Sunday morning meeting, it was either the beginning - sorry - the - sorry - the end around the 10th or in the following week, before the 15th. Wasn't the election the 15th?

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MR. COONEY: Mr. Callanan seemed to be making that suggestion.

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MR. CALLANAN: I better clarify that. It was not my intention to make that point, but to the contrary, Mr. Gogarty expressly said in the course of cross-examination by Mr. Cooney, that the meeting, the trip to Mr. Burke had not taken place on a Saturday and Sunday and I think he was quite --

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CHAIRMAN: That's my recollection.

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MR. CALLANAN: I was simply reiterating that. Sorry, if I gave the other impression I was not seeking to depart from that.

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MR. COONEY: He said he didn't rule out the weekend.

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CHAIRMAN: Well, I can assure you it didn't register with me, for what's its worth, because I am fully of the belief in the sense that the two areas are weekdays. When I use the phrase "weekdays", they are either the 9th, 10th or in the following Monday, Tuesday, and I think Mr. Gogarty or somebody said it is unlikely to be the day of the election.

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MR. COONEY: Yes, he did say that.

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CHAIRMAN: I forget now who said it, I think it was Mr. Burke who may have said it. That's my understanding of it.

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MR. COONEY: Mr. Burke said it, and then there is the question of the television programme, however that's another point.

207 Q. MR. CALLANAN: Mr. Murphy, when you were asked by Ms.

Dillon as to why you, your purpose in coming to Ireland on the 31st of May of 1989 on foot of your statement, you said you were going to a close friend's wedding and you then added "maybe an extended break"?

A. And an extended break.

208 Q. I see.

A. I mean I think if you are coming for a wedding it would be a day or two, it lasted four or five days.

209 Q. Well, at the same time you are suggesting that the wedding was, effectively spanned that period, and I am wondering why you felt it necessary to add the term "extended break"?

A. That's what it was. The wedding was on the Saturday, there would have been no reason to arrive until the Friday, but I decided to have an extra few days in Ireland.

210 Q. And you said you flew over on the 31st of May of 1989 from Heathrow and drove down to Waterford from Dublin for the purpose of, simply the purposes of meeting Denis Flynn?

A. The purpose for the wedding, Mr. Callanan, and we had arranged to meet Denis Flynn. He decided that he would come on the Wednesday as well, otherwise I would not have come until the Thursday I don't think.

211 Q. The wedding was on the Saturday; isn't that so?

A. Correct.

212 Q. And I am just curious as to what the necessity was to meet Mr. Flynn, given that you were going to be in his company for a further period of five days?

A. I don't know when I had seen Mr. Flynn last.

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CHAIRMAN: With respect, Mr. Callanan, we are certainly beginning to wander from the point and that, we must try to keep more on the point.
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213 Q. MR. CALLANAN: Very good, Sir. And your evidence to the Tribunal is that you were in Waterford for the entire period?

A. I never left Waterford during that entire period.

214 Q. And what precisely happened on the 5th of June, the day you returned to Dublin, which was the Monday?

A. As I say, my recollection of that is that we had a long, for want of a better word, tiring weekend. I think that we may have got up late, maybe 11, 11.30 I can't be fully precise. I remember distinctly having lunch with Denis Flynn and his wife before I travelled back to Dublin.

215 Q. And for the date of your return we are dependent on your testimony, Mr. Flynn's testimony and - sorry, Mr. Green's testimony I think it is and the car hire documentation; isn't that so?

A. No, Mr. Green wasn't at that wedding, Mr. Green was at the funeral.

216 Q. Yes, I am sorry. You flew back alone to London?

A. I flew back on the morning of the 6th alone, yes.

217 Q. And can you say why Mr. Mycroft can be so certain in his statement that you weren't in Dublin during the 6th, 7th, 8th of June and the week commencing Monday the 12th of June?

A. That would be a matter for Mr. Mycroft's evidence, but I can certainly tell you why, he checked back on records at the time and as I say, the particular job in Wansworth Bridge, the cables in the documents that he got show that

the actual cables were pulled in on the 6th and the ancillary works done from the 6th to the 10th and that recollected, that helped him in his memory, he remembered me being there for that critical period. The object of our type of work is when you dig and whatever else, the main object is to pull in the cables, this was on the 6th, the day that it actually happened, and that particular section I think, went on until I think from the 6th to the 10th. Mr. Mycroft will give evidence in that regard.

218 Q. And if I can just turn to the final issues I want to deal with, Mr. Murphy. Was there a - firstly, can you suggest any reason why Mr. Gogarty would have prepared letters and not sent them to your father in 1989?

A. Part of his blackmail plot.

219 Q. Dating from 1989?

A. I don't know, he could have written them afterwards. God knows what was in that man's mind.

220 Q. And was the correspondence in relation to the sale of the North Dublin lands kept in a particular file?

A. I don't know, Mr. Gogarty kept that file. When I met him he told me he had taken out numerous files out of the JMSE premises, when he threatened to destroy us, and go to the Guards, the newspapers and the Revenue.

221 Q. But there must have been a file; isn't that so?

A. A file on what?

222 Q. Of the correspondence relating to the sale of the North Dublin lands in 1989?

A. No, I think that that file was kept with Denis McArdle. I stand corrected, but I think that that whole file was with the solicitors, Denis McArdle.

223 Q. Well, some of the records obviously were with Mr. McArdle, but there were, we have seen a variety of letters from Mr.

Gogarty to your father, from Mr. Bailey to Mr. Gogarty. I know there is a dispute over whether some of those letters were sent or received, but there would be more than sufficient to warrant and require the maintenance of a file in JMSE?

A. I would say the majority, some documents may well have been there, Mr. Callanan, I accept that, but most of those files in relation to those lands were kept in the offices of the late Denis McArdle.

224 Q. And in addition, the fact of the arbitration would have necessitated pulling together whatever correspondence could be found in Santry; isn't that so?

A. Not necessarily, the arbitration was a separate matter to the sale of the lands.

225 Q. And you have said at paragraph 23 of your first statement, that you were, you had never seen the letter of the 8th of June of 1989 from Mr. Bailey to Mr. Gogarty, proposing a 50/50 as an alternative, a 50/50 involvement in the development of the North Dublin lands?

A. I never saw that letter before.

226 Q. And you weren't aware of its content --

A. Not at all.

227 Q. -- until you saw it in the newspaper, wasn't that your evidence?

A. I saw it in the newspaper. I said this was the first time the 50/50 proposal - however Mr. Connolly, he wasn't specific when he told me about the joint venture, he wasn't specific to the 50/50 proposal, but Mr. Connolly told me in December of 1996 a joint venture, I think in my statement if you look at it, it quite clearly says the first I was aware of a 50/50 proposal was when I read it in the newspapers, that's correct.

228 Q. And I think it appeared first in, there were extensive quotations from that letter in the issue of Magill of the 25th of September of 1997, and it was subsequently published in its entirety isn't that so?

A. That's correct. I don't think I read Magill, I think a few days later it was published in the papers and that's where I read it.

229 Q. What was your reaction when you read that letter?

A. It would have been, I mean, I think that at that time this word "procurement" was making the headlines, yes. I would have been shocked, yes.

230 Q. Did you go to Mr. Reynolds and ask him about the letter, discuss it with him?

A. I would have discussed it, of course, yes.

231 Q. What was his reaction?

A. The first time he had seen that letter as well.

232 Q. And the letter of the 8th of June of 1989 with which we are all familiar, it included effectively a proposal in relation to the Poppintree lands, including the other lands; isn't that so?

A. All the lands were included, wasn't it? Yeah.

233 Q. Some reference to Poppintree; isn't that so?

A. Yeah.

234 Q. And you went to arbitration in relation to Poppintree; isn't that so?

A. Of course, yes.

235 Q. And that was in relation to the value to be placed on the Poppintree land and on Poppintree House?

A. Yes, yes. On the damage that had been done, yes.

236 Q. And was there discovery in those, in the arbitration proceedings, as between you and the Baileys?

A. There obviously was, between the solicitors or whatever,

yes, that would be a matter for them.

237 Q. And it is your evidence to the Tribunal that the matter went to arbitration, which took place in late 1992 without the Murphy interest ever having sight of the letter of the 8th of June of 1989?

A. The letter of the 8th of June wouldn't have been brought up. The matter was arbitration, it wasn't a matter for the selling of the land. The lands had been sold, deposit on it, I never saw that letter during the arbitration proceedings, it wasn't needed. The matter had been dealt with. The arbitration as you well know was to see the value of the damage that was done to the property, as far as I was concerned the 600,000 figure that the Baileys were putting on it was outrageous, that was what we were dealing with at that time, not the actual sale, the lands had already been sold.

238 Q. It was a document which was relevant, I appreciate you are saying you didn't have it, it is a document relevant to the valuation of the Poppintree land; isn't that so?

A. Mr. Bailey's letter?

239 Q. Yes?

A. No, I think that we had got other people involved. The value, we were just concentrating on the value, I think it was four acres, you know, I stand corrected, four acres, and I think that we had paid something like 65,000 for those at the time. We were outraged at this figure of £600,000 from a discount, we wouldn't have gone back into the documents for the sale of the lands. Mr. McArdle may well have, my concentration was purely focused on the arbitration.

240 Q. Just arising from that last answer, is it possible that there was the letter or a copy of the letter in the JMSE

premises in Santry but that nobody had troubled to find it?

A. No, I am not - no.

241 Q. So your evidence to the Tribunal is that that letter was never in the possession of JMSE?

A. No, this was a letter addressed to Mr. Gogarty and a search, discovery or whatever else, it was not in the JMSE premises. Frank Reynolds had never seen it, I had never seen it and my father said he had never seen it.

242 Q. And it never came up at all in the course of the arbitration?

A. No.

243 Q. Thanks Mr. Murphy.

A. Thank you Mr. Callanan.

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MR. MOHAN: Mr. Chairman, I may commence my cross-examination at this point on behalf of Mr. Ahern?

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CHAIRMAN: It is a question of what's more convenient to you. We can either, if you are going to be reasonably short, by that I mean half an hour or thereabouts I want to get it in one unit.

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MR. MOHAN: I imagine I will be an hour at that point --

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CHAIRMAN: We might as well go to lunch early and come back early, it is the same result. So if we sit again sharp at 2 o'clock it will have the same effect as if we went on until one o'clock and sat at quarter past two.

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THE HEARING THEN ADJOURNED FOR LUNCH.

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THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

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MR. JOSEPH MURPHY JNR. RETURNED TO THE WITNESS-BOX AND WAS
CROSS-EXAMINED BY MR. MOHAN AS FOLLOWS:

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MS. DILLON: Sir, just before Mr. Mohan resumes or
proceeds to cross-examine Mr. Murphy, there have been some
changes in the scheduling of witnesses which should be
dealt with in public.

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Due to circumstances beyond our control. The witness
scheduled it take up tomorrow will now be deferred until
Monday afternoon. That is Mr. Roger Copsey. And the
Leitrim witnesses who had been scheduled previously will be
taken after the Gardai give evidence tomorrow. Presumably
if Mr. Murphy Jnr. is finished today the sequence then
tomorrow will be the Gardai followed by what are called the
Leitrim witnesses to be concluded on Thursday morning and
then to resume again on Monday afternoon with Mr. Roger
Copsey at two o'clock.

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That appears to be the present position in relation to the
availability of witnesses.

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CHAIRMAN: Well, in the circumstances it is wholly outside
our control and in no way, in no way have we any
responsibility for it. I will have to agree to those
reschedulings. I am doing my very best to get this session
concluded, and it doesn't help to lose days, however.

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MR. MOHAN: Mr. Chairman.

CHAIRMAN: Mr. Mohan, when you are ready.

244 Q. MR. MOHAN: Mr. Murphy, I appear, as you know, for Mr. Ahern and I have a number of questions which I would like to put to you in the context of your meetings with him. On the 24th of June you met Mr. Ahern for the first time; is that correct?

A. That's correct.

245 Q. And you met him for the second time, as we know, on the 1st of July; is that correct?

A. That's correct.

246 Q. I want to put to you that at that time there was no agenda of any description, nor no ill will of any description between you both, is that your understanding of the position?

A. That's correct.

247 Q. You have agreed with this proposition, I think with both Ms. Dillon and Mr. Callanan, again I just want to go through it very briefly with you. You were aware of the purpose of Mr. Ahern's visit to you in London, were you?

A. He had said briefly. I asked him, I think on the phone call on the Monday, what is it in connection with? And he said "various rumours in the media", etc. yeah.

248 Q. And in that context you understood that to mean the rumour which we, you have already dealt with in some detail, namely that Mr. Gogarty had explained or had said that Mr. Burke had received money from JMSE in or around June of 1989; is that correct?

A. That's correct.

249 Q. You were aware of that as far back, as I understand it from your own testimony, of March and April of 1996; is that correct?

A. Correct; that is when the articles first appeared, yes.

250 Q. And also from your meeting directly with Mr. Connolly himself?

A. No, I never met Mr. Connolly directly. It was a phone call.

251 Q. Sorry, you are quite correct, through the phone call and indeed through the article?

A. Correct.

252 Q. So you were in no doubt whatsoever of the actual rumour as you describe it, of the actual rumour that Mr. Gogarty was perpetuating, according to yourself; is that correct?

A. That's correct.

253 Q. Around that time you were, as I understand it, also in receipt of legal advice; is that correct?

A. Correct.

254 Q. And that legal advice again centred wholly on that issue that Mr. Gogarty, what Mr. Gogarty was saying about you, about your company and about bribes and about political donations; is that also correct, yes?

A. In the media, yes.

255 Q. In the media. And you were also in receipt, as I understand it, I think of PR advice in or about that time; is that correct?

A. I think that as I explained earlier on, the PR thing was in or around, for a few months in 1996 and petered out then. It didn't sort of resurface again until the start of these proceedings, in or around the start of it.

256 Q. But I am given to understand, again it is from listening to your own account and correct me in I am wrong in this, wrong in this impression, certainly that I have, that these were rumours which gravely concerned you, it was because they concerned your good name, your reputation, the good

name and reputation of your company; and it was something you were treating with the utmost seriousness; is that correct?

A. Yes, from the initial articles we received advice, as I say it died down for a period of 12 or 13 months and resurfaced again in May of 1997. I knew these articles at the time not to be true.

257 Q. Yes, but central to all of it was the issue as to whether or not a payment had emanated from your company, JMSE, to Ray Burke?

A. Correct.

258 Q. Either in the form of a political donation or a bribe; is that so?

A. Correct, yeah.

259 Q. And again, going over what you have said, what did you do to check whether or not that was correct?

A. As I say, in the initial period I would have checked with my father and Mr. Reynolds, at a later stage I became aware in 1996 that Mr. Gogarty was putting me at the meeting, there were various other things in these articles and we dismissed them as absolute lies.

260 Q. When you checked with your father and Mr. Reynolds, what did you ask them?

A. I asked them if they knew about a payment to Ray Burke.

261 Q. You asked them one question?

A. No, we may have discussed it, we may have expanded on that. "Mr. Gogarty is going to the newspapers and this is what he is saying". I would have expanded on that, we would have had a general discussion, not just confined to one question.

262 Q. Can I suggest to you that you would have asked whether or not a political donation had been made, simplicitor?

A. I asked at the time, both of them, if they knew about any payment to Mr. Burke.

263 Q. What about political donations, generally, did you ask them about that?

A. No, I think that those records were available. I wouldn't have had to ask my father that because he personally never gave any political donations in his life and the previous five or six years there were some small contributions to political parties around election time, which were on file, so they would have been easily accessible.

264 Q. And again I am taking this from your own testimony and again correct me if I am wrong, that apart from this £30,000 amount and leave that to one side, that the largest donation was in or about £1,000 apart from the £30,000 from your company; is that correct?

A. That's correct, yes.

265 Q. So this, to put it mildly, would stick out like a sore thumb, a £30,000 donation?

A. Correct.

266 Q. So in the context of finding out whether or not money had come from your company, the issue you would have, I suggest, spoken to - when you spoke to your father and Mr. Reynolds, was whether or not a donation a political donation had been made generally, and specifically whether or not this had been made to Mr. Burke?

A. No, the allegations being made were a bribe and the allegations were being made in the, especially in the Business Post, that a bribe had been paid by us for planning.

267 Q. No; but the point I am putting to you, Mr. Murphy, is that not only, I am suggesting to you not only had you asked had a bribe been paid, but you also, I suggest to you, were

astute enough to put the question whether or not a political donation had been made?

A. I don't think -- I think that maybe money in general. I think that at that time we were discussing a bribe which was in the newspapers and we, it was specific to a bribe in connection with planning and that was the discussions I had with them.

268 Q. So in your efforts to check the veracity of whether or not that payment had emanated from your company, are you stating and is it your testimony, that you never asked whether or not a political donation had been made, any political donation?

A. Well, I knew - my father told me that he never contributed any money to any political party or any politician in his life, so I mean he did tell me that.

269 Q. But sure we know your father at this stage is to some extent out of the picture?

A. Yes.

270 Q. So Mr. Reynolds who is very much in the picture, what did he say?

A. Well, I don't think the other small political contributions were discussed. It was the specific one in relation to the media reports, that we were concentrating on.

271 Q. But Mr. Murphy, you have already told me that you had a general discussion about this issue. And I would have to suggest to you that in questioning or verifying or checking that, of course you would have a long and detailed discussion about something?

A. Yes.

272 Q. Which was very material to your good name and reputation and to the good name and reputation of your company?

A. Correct.

273 Q. And that that discussion would centre on whether or not political donations of any description of a large amount had been made and to who?

A. Since I had got involved on a full-time basis or when I became Chairman, I would have known about the other small contributions made at election time. It wasn't a big discussion.

274 Q. No, leave the small ones aside, I take your point entirely in that regard. I am talking about something in the order of £30,000 which in any reckoning is a very large sum of money by way of a political donation?

A. Of course.

275 Q. How many discussions did you have with Mr. Reynolds?

A. I mean, I don't know, I would have had a few, numerous discussions with him about the allegations.

276 Q. Would Mr. Reynolds have turned up to meetings with your lawyers and other advisors in this regard?

A. He may have, yes, he was at some meetings, yes.

277 Q. Did Mr. Reynolds in your company ever explain to you or your advisors that he had a specific recollection of questioning one particular request from Mr. Gogarty to sign a cheque?

A. No.

278 Q. Are you saying that he never at any time, from that time until a statement arrived at this Tribunal?

A. I think that in the legal discussions Mr. Reynolds said that Mr. Gogarty put to him on a few occasions a cheque book and said "sign here" and if Mr. Reynolds queried it, I think Mr. Gogarty, his response was "don't ask questions, don't ask questions". Mr. Reynolds considered Mr. Gogarty to be his boss at the time and didn't ask him questions.

279 Q. But were you aware that Mr. Reynolds knew this, in other

words were you aware that there was an incident where he had a recollection of questioning a particular request from Mr. Gogarty?

A. I don't know. Mr. Reynolds I don't think is specific to that particular cheque that he may have signed. He said in general that he remembered that Mr. Gogarty, on a few occasions had put cheques to him and said "don't ask". He put his hands in the air and said "don't ask questions".

280 Q. Can I just read part of his statement to you, if in that regard, if I might, it is just one sentence; if there are other parts you feel I am being unfair about please say so.

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MR. COONEY: Sorry for interrupting, under what relevance does this have to Mr. Dermot Ahern's interest to this Tribunal? He is a witness to this Tribunal. Differences appeared between his evidence and what Mr. Murphy's evidence would be. I think this is a matter perhaps that his counsel should be addressing and not conducting a general trawl through topics which have already been gone over in this Tribunal. I don't know, I don't see that Mr. Mohan should be allowed this latitude to rake over such a wide range of matters, My Lord. I can't see that it is relevant to the interests of his client to do so.

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MR. MOHAN: If I may answer that, Mr. Chairman. It is very relevant to my client. It affects my client's general interest. The issue was whether what was said to my client at two meetings and whether or not Mr. Murphy was aware at that time of a £30,000 payment. We know what the memoranda say in that regard and then the issue of the subsequent telephone calls, certain matters have been very forcefully

put by Mr. Cooney without, may I say any prior notice to my client, and in that regard this issue is indeed very relevant to the core issue as to what this witness' knowledge was at the time of those two meetings, because his credibility has been very much pitted against my client's credibility. I am here to protect his good name in that regard.

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CHAIRMAN: Continue for the moment.

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MR. COONEY: With respect Mr. Chairman, he cannot protect his client's credibility by attacking, attempting to attack my client's credibility on issues with are no concern of his. That is the first point I make. Secondly, if insofar as sums of money are concerned, Mr. Ahern told this Tribunal that the sums of money mentioned by him on the occasion of his first conversation with Mr. Murphy were 40, 60 and £80,000 and that is what he has noted in his memorandum.

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MR. MOHAN: Is that your position Mr. Chairman, may I continue?

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CHAIRMAN: You may.

281 Q. MR. MOHAN: If I may read from this particular sentence Mr. Murphy. "I cannot say for certain" this is Mr. Reynolds words "I can not say for certain whether this exchange took place in relation to one or other of the cheques "--

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MR. COONEY: What part of the statement is this?

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CHAIRMAN: It is --

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MR. MOHAN: This is Mr. Reynolds statement, it is under the heading, it is under the heading "Mr. Gogarty's allegations in relation to Ray Burke and Michael Bailey" it is at paragraph 13 and over the page from paragraph 13.

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MR. COONEY: I wonder could the witness have a copy of this as well?

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MR. MOHAN: Myself I don't unfortunately have a copy.

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CHAIRMAN: We will get him a copy.

282 Q. MR. MOHAN: I cannot say for certain whether this exchange

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CHAIRMAN: Hold on just one second. (Document handed to witness) It is actually overleaf. It is overleaf from the first six lines of paragraph 13.

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MR. COONEY: Thank you.

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CHAIRMAN: It is just at the top of the page.

283 Q. MR. MOHAN: Do you have that, Mr. Murphy?

A. I do.

284 Q. Yes. You will see the first part that I have already put to you "I have a specific recollection of questioning one particular request from Mr. Gogarty?"

A. Sorry, paragraph 13 is it?

285 Q. It is paragraph 13, it is over leaf of paragraph 13 at the top of the next page. "Mr. Gogarty said to me in an autocratic way not to ask him questions". You have

referred to that. The next sentence is as follows: "I cannot say for certain whether this exchange took place in relation to one or other of the cheques related to payments of Mr. Burke. But I suspect that he did because cheques for this sum of cash would have been unusual and would have prompted questioning on my part. "

A. That's fine. Yes.

286 Q. Did Mr. Reynolds ever explain that to you in your meetings, in your general discussion when you were so concerned about the good name of yourself and your company?

A. In consultation with our lawyers this may well have come up, yes.

287 Q. Did this not prompt you to an issue as to whether or not you should have checked what payments emanated from your company prior to June the 24th?

A. As I say, Mr. Mohan, and I have given evidence, that the full thorough examination was taking place in July and August.

288 Q. But why was that so? I mean if I can preface it with this remark and the question to follow. You have already stated this was, this issue was a very, very important issue to you and to your company?

A. Correct, yes.

289 Q. And fundamental to this issue was whether or not a payment came from your company?

A. Correct, yes, but I was not aware that there was any sort of political contribution until the afternoon of July 1st.

290 Q. Yes, but what I am putting to you is that all you did was ask your father, speak to Mr. Reynolds, who presumably is going to give evidence in relation to this matter in accordance to what I have just read to you?

A. Yes.

291 Q. And what else?

A. And we had looked in the, I had spoken to Mr. Copsey.

292 Q. Had you spoken --.

A. In or around May 1997.

293 Q. Sorry, yes, I wanted to clarify that. It wasn't until May of '97 that you spoke to Mr. Copsey?

A. Correct. As I say Mr. Mohan we dismissed it, while we were treating the allegations seriously we had met with our solicitors because of the full content of the articles. I dismissed them as lies by Mr. Gogarty.

294 Q. Yes, but Mr. Gogarty ran the company back in 1989; is that correct? Or an integral part in running the company; is that correct?

A. He was Chairman up until July of 1989, yes.

295 Q. Did you ever ask yourself the simple question, as Mr. Ahern asked you; was it possible for Mr. Gogarty to make a payment without other parties knowing?

A. Well, that occurred at the first meeting with Mr. Ahern and the way I read into that, was Mr. Gogarty a cheque signatory on his own? Would he have been able to take out this money on his own? I wasn't one hundred percent sure and went back and checked.

296 Q. Are you asking the Sole Member, the Chairman, to believe that you never raised that issue in your own mind prior to that meeting with Mr. Ahern?

A. Whether he was a sole signatory?

297 Q. Whether or not Mr. Gogarty could have been involved in a payment of money from JMSE to Burke?

A. No, because Mr. Gogarty was putting me at that meeting and initially had put somebody else, a director at that meeting, it was dismissed as lies.

298 Q. You made a reference already in your testimony to the

cheque journal?

A. Correct.

299 Q. Now, this is, correct me again if I am wrong about this, but you made reference to it I think at the first meeting with Mr. Ahern, that you had checked the cheque journal; is that correct?

A. I think so, that's correct, yes.

300 Q. If what you say is correct, why bother going near the cheque journal?

A. Well, we would have looked at the time in discussions with Mr. Reynolds, and would have said "let's see if there is a £40,000 payment out of JMSE at the time", that was part of the check we did at the time.

301 Q. Why look at the cheque journal?

A. Just to see if there was any truth in it.

302 Q. Surely, and I suggest you are not that naive to think that if, if it is a bribe to Mr. Burke that it will appear as one single payment in a cheque payment to Mr. Burke, surely you are not?

A. That was what the allegations were being made at the time, £40,000.

303 Q. Are you asking the Chairman to believe that that is a reasonable explanation, that that is all that you would look at?

A. That is what I looked at at the time.

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MR. COONEY: Sorry Mr. Chairman, that is not really a proper form of cross-examination. That is really merely harassing the witness. "Are you asking the Chairman to believe that it is reasonable"; that is not cross-examination.

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304 Q. MR. MOHAN: If I may put it another way then, Chairman.

What you are saying is that you looked at the cheque journal to see if there was a single payment in the sum of £40,000 to Ray Burke, and when you didn't see that you said "well, that's me clean, or the company clean, there must be no payment to Ray Burke"?

A. I have given evidence here on the investigation that we did at the time. I checked with my father at that time, I checked with Mr. Copsey, Mr. Reynolds, and we looked at the cheque journal and we didn't see any payment for £40,000, because of the totality of the articles and the shots and everything else, we dismissed it. It wasn't until later that I got some sort of knowledge of the afternoon of the 1st that we put a full and thorough investigation through.

305 Q. It would have taken, I suggest to you, a bookkeeper or an accountant or somebody of that like, about, less than an hour I would have thought to go through the cheque stubs for the month of June, provided they had them?

A. It took us, it took us a long, long time I think to get those cheque stubs and I have given evidence here earlier on, that my priority, I was very busy at the time. I was based in the UK. I had a company to run. I had some personal, medical, family problems. There were other things I had to do as well.

306 Q. You are referring to, I think after July, after the 1st of July now; is that right?

A. This is all in or around the June/July period yes, July, yes.

307 Q. What I am suggesting to you is, is that a simple examination of your own payments, in other words the bank statement would say, have disclosed the two payments, in other words cheque stubs made payable to cash; isn't that

so?

A. That may well --

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MR. COONEY: Mr. Mohan refers first of all to bank statements, then he refers to cheque stubs. Now, which is it, with respect?

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308 Q. MR. MOHAN: Well, to both, to either.

A. As I have given evidence here, Mr. Mohan, we only checked the cheque journal, the cheque stubs were not discovered until later.

309 Q. Did you receive any form of advice legal or otherwise to check whether or not a payment had come from JMSE from, say midway through 1996?

A. No. We were primarily concerned with protecting our good name and the good name of the company, and personally the consultations at the time would have been in relation to the newspaper articles, which --.

310 Q. Yes, but this is central to that issue, that is the point I am making to you; do you not accept that?

A. I do. It was a central, a central part of the issue as well was that I was at the meeting, which I was not.

311 Q. When you met Mr. Ahern, you have agreed with me that he bore you no ill will. He had no agenda towards you. He had a specific, and if I may put it this way, a very important task to perform. Would you accept that?

A. I would.

312 Q. And you treated that query, as it were, with a degree of importance yourself, I suggest?

A. Of course. He was sent on behalf of the potential leader of this country. Of course it was important.

313 Q. And you knew and we have gone through this, you knew what

the meeting was about, in broad terms?

A. Yes.

314 Q. When he put together his two memoranda, I would also suggest to you that he had no ill will towards you when they were written. Would you agree with that?

A. Yes.

315 Q. Would you also agree, having read the memoranda and I say being reasonably familiar with them at this stage, that in broad measure a lot of what he put down there, you would also agree with?

A. We agree on a lot of issues, Mr. Mohan, and we disagree on some other issues.

316 Q. I know that from your testimony, but what I want to get, to ask you in relation to the detail in those memoranda, are they, would you say a fair and accurate account of what took place with you; take the first one first?

A. There are mistakes in that first memoranda. I mean one that comes to mind straightaway is that, sorry, excuse me, is that Mr. Ahern noted down that I told him I took over JMSE in 1987 when there was a lot of turmoil. Well, as we know here the turmoil didn't happen until the middle of 1988, so he is mistaken in that.

317 Q. Yes.

A. I mean it is a minor detail.

318 Q. It is minor, in broad terms would you agree with the detail?

A. In broad terms.

319 Q. Like for example when he refers to the detail, for example a copy of the discharge signed by Mr. Gogarty and witnessed by his solicitor, Gerrard Sheedy, he refers to an agreement that Mr. Gogarty would receive £215,000 commission, that type of detail was obviously detail that you had given him;

isn't that correct?

A. That's right. I had brought that on the file and showed it to him there.

320 Q. There is a reference to his final pension sum, in the sum of £300,000 less tax. There were discussions about his P60. There was discussion about the Revenue Commissioners. There was a discussion about the acrimonious court case. What I am putting to you is that there is an account there which you wouldn't disagree with; is that correct?

A. In broad terms.

321 Q. In broad terms.

A. As you put it yourself in broad terms, but there are certain elements I would disagree with.

322 Q. I have noted that, but that detail could only have come from you to Mr. Ahern; isn't that so?

A. Of course, yes.

323 Q. You came armed with a large file?

A. A Gogarty file, yes.

324 Q. Yes; and you came armed with that file and you sat down and you explained all of this to Mr. Ahern?

A. I explained the type of man that Mr. Gogarty was, yes.

325 Q. If I may suggest, to convince Mr. Ahern that Mr. Gogarty was not a very stable man?

A. Mr. Gogarty was a liar.

326 Q. But you set about trying to convince Mr. Ahern of that at this meeting, if I may suggest to you?

A. Well, I would have shown him all the relevant documents and yes, I told him that, I mean I think the words I used to Mr. Ahern that was Mr. Gogarty was a "vicious, evil, liar".

327 Q. And you had the documentation with you to show that as far as you were concerned?

A. The various documentation in relation to the P60's, I think two or three of the Business Post articles, I think I have given a list there of the documents that were in the file.

328 Q. Let me put it to you how Mr. Ahern saw it. He arrived with this query and forget about the difference between you on this, on the questions that were asked, but you explained how you felt toward Mr. Gogarty and what he had done and what he hadn't done, but that you were able to give Mr. Ahern chapter and verse on this man; isn't that correct?

A. Yes.

329 Q. And you were able, I would suggest, to convince Mr. Ahern that you knew plenty about Mr. Gogarty and that you had this matter checked, that you had him checked fully and completely and that you had a full history on Mr. Gogarty?

A. On Mr. Gogarty yes, a lot of the discussion was taken up with Mr. Gogarty, yes.

330 Q. So that when Mr. Ahern asked you the question and using your question, not Mr. Ahern's question, "did JMSE or any related companies pay any money to Mr. Burke"?

A. No, I corrected that, I know Ms. Dillon put that to me. I don't know, for one hundred percent sure, whether he said "related companies" he may have said "JMSE".

331 Q. Strictly you are quite correct, page 136 when Ms. Dillon put it to you, it was only subsequently that you corrected that?

A. That's right. He may well have, but he may well have just put JMSE to me.

332 Q. Leave "related companies" out because we are not dealing with related companies, it is JMSE; let's rephrase the question. In the context of you meeting with Mr. Ahern armed with your very large file, explaining in graphic detail what Mr. Gogarty was about and what he was like,

that the question is "did JMSE pay any sum of money to Mr. Burke?" You were categorical in your answer and that was "no"?

A. Yes.

333 Q. Why did you give such a categorical answer to that?

A. Because that was my knowledge at the time.

334 Q. But, no, why did you not equivocate and say "look, I have spoken to my father, I have spoken to the MD, both of them have no knowledge of it"?

A. I did tell him that.

335 Q. But why did you not also say you didn't check payments from your company?

A. I didn't say, I think I said that we checked a record or mentioned a cheque journal and as far as I was concerned that is the reason why the newspaper articles were brought in on this file and why we discussed Gogarty in detail, because as far as I was concerned at that time it was absolute lies.

336 Q. No, but do you understand the point I am making? You gave a false impression?

A. No, I didn't give any false impression. This was my knowledge at the time.

337 Q. No, but it was incorrect?

A. No, I don't accept that.

338 Q. You don't accept that JMSE gave money?

A. I don't accept that I was - that was my knowledge at the time and I have, I told that to Mr. Ahern in good faith.

339 Q. That is your testimony now, but what I am putting to you is that you clearly, whatever words you used and I suggest you, I am putting this to you to see whether or not you agree with me or not; the clear impression was that you knew everything about this gentleman and his dealings with

your company?

A. No, that's totally incorrect.

340 Q. Why bring a very large --

A. Because when Mr. Ahern put to me if Mr. Gogarty could make this payment all on his own, I wasn't sure whether he was a cheque signatory, I still had to go back and check; so he would have known by that alone, and when I did come back to him and inform him that I had found out Mr. Gogarty was a cheque signatory, he would have known that I hadn't a detailed knowledge of everything at the time.

341 Q. But why bring the large file and go up the high-ways and down the by-ways in relation to all of Gogarty's dealings with you? Why go into all of that, if not to convince Mr. Ahern that you knew what you were talking about?

A. It was to convince Mr. Ahern what type of man Mr. Gogarty was.

342 Q. Yes. But you hadn't bothered to do a cursory check on your own payments for the month of June in which you were aware the allegations concerned?

A. No. I dismissed them, as I said we dismissed them because the articles weren't taken in totality. When taken in totality to me, were absolute rubbish and I dismissed them at the time. I was not at the meeting.

343 Q. Sorry. Yes, but you give the clear impression to Mr. Ahern that no such payment had been made and that was an incorrect and wrong impression?

A. No, I disagree with you. That was the knowledge that I had at the time.

344 Q. You see, I also heard you say in the course of your evidence, I think it was again to Ms. Dillon, that you mentioned back in 1996 how the matter had blown up, the articles had appeared and this was a matter of some concern

to you and shortly after the matter died down; is that correct?

A. Yes. I think after the initial articles, 31st of March and I think the 7th of April, in or around that time the matter died down in the media, yes.

345 Q. It died down again until when?

A. It died down again in the media until May of the following year.

346 Q. You see, I have to suggest to you that you thought that this, if this whole matter passed away over the next few weeks it would die down at all?

A. Not at all, no way. No.

347 Q. And that a simple, that you knew well at this time that £30,000 was, had --.

A. I reject that totally. That is absolute rubbish.

348 Q. Why not even equivocate and say to Mr. Ahern, "look, you know, I have spoken to two people about this"?

A. I told him I had spoken to three people about it.

349 Q. But bear with me "I have spoken, they have said" no sorry, well yes, you had spoken to Mr. Copsey, I will come to that in a moment. "They have told me no, but I haven't checked the payments of the company". You will recall and you agree with me that Mr. Ahern had raised the issue, could Gogarty have made the payment without the knowledge of these people? It is the most obvious question in the world, it is like night follows day?

A. I didn't know at the time, that's whether Mr. Gogarty was a cheque signatory or not and that just goes to show the amount of checking I had done at the time.

350 Q. In other words, you done really no checking?

A. I hadn't done a thorough check, no.

351 Q. Yet you were prepared to let the prospective minister of

the government go back to the then Taoiseach or soon to be Taoiseach in relation to the appointment of the next Foreign Minister of this country?

A. I told him what I knew at the time, Mr. Mohan. I told him.

352 Q. You never said that to him?

A. I told him in good faith.

353 Q. You thought it would go away?

A. I did not.

354 Q. And you left on this basis that you would keep in touch with each other?

A. I don't think it was keep in touch with each other, as I said he gave me his phone number. I gave him my phone number and if there were any developments or issues, we would keep in touch, sort of thing, something like that.

355 Q. There was no arrangement for a second meeting?

A. Oh, not at that time, no.

356 Q. Now, you decide to contact Dermot Ahern; you say, correct me again if I am wrong in this, there were two points that you say arose, the first was you now confirmed that Mr. Reynolds was a co-signatory, that you say is the more important point?

A. No --.

357 Q. Sorry, that Mr. Gogarty was a co-signatory with Mr. Reynolds, and the second issue was the point about the meeting as you understood?

A. No, can I just correct you there?

358 Q. Sorry, of course, yes.

A. The first point was that Mr. Gogarty was a signatory at the time. I would have known that Mr. Reynolds, I think, was a signatory. I didn't have to confirm that. It was the point on Mr. Gogarty, that he was a cheque signatory.

359 Q. So this was important?

A. Well this was information that I wasn't able to give him at the first meeting.

360 Q. Did you contact Frank Reynolds?

A. Yes.

361 Q. Did you ask Frank Reynolds; "now wait a minute you must have cross signed a cheque, was there something out there that you might be uneasy about, a large sum of money that you there was no explanation for"?

A. No, I asked Mr. Reynolds if Mr. Gogarty was a cheque signatory in or around this time.

362 Q. Are you, is that all you asked Mr. Reynolds?

A. I may have, no, I would have discussed the meeting with Mr. Ahern with him.

363 Q. Yes, but this is in the context of whether or not Mr.

Gogarty could have got money from JMSE by way of bribe or political donation or how; in other words, Mr. Reynolds now would have to cosign a cheque?

A. I am not sure, there were other signatories there at the time, it mightn't necessarily have been Mr. Reynolds. We were quite satisfied at this time that the payment had not come from JMSE.

364 Q. Doesn't the question cry from the heaven, "look was there a cheque which you signed", this is you talking to Mr.

Reynolds, "was there a cheque which you were asked to sign which in someway prompted an issue in your own mind that it was for a large sum of money for a politician or by way of political donation"?

A. He had no knowledge, I emphasise he had no knowledge of any political contribution to a political party, or a politician, whatsoever.

365 Q. Well, are you now shocked and surprised at his statement to this Tribunal?

A. No.

366 Q. Well, can you please explain to me how those two matters can lie side-by-side?

A. That is matter for Mr. Reynolds. This is his statement.

367 Q. No --

A. I think when we were piecing everything together, and as I say Mr. O'Keefe was at the consultation on the 20th, this may well have come up through memory or whatever else, this happened later. Mr. Reynolds had no knowledge of a political contribution or a payment to Mr. Burke.

368 Q. I can only again reiterate the portion of the statement I have read to you, that he has a specific recollection of questioning one particular request from Mr. Gogarty, you know the portion --

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MR. COONEY: That was in December of 1998, with respect.

A. This statement was made in '98, Mr. Mohan.

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369 Q. MR. MOHAN: Sorry yes, but it relates to a payment as we know back in June of 1989?

A. We were piecing this together at consultations in 1997.

370 Q. You were sitting down trying to work out exactly what happened.

A. Yes. This is after, this is after my meetings with your client.

371 Q. Sorry, no, after the first meeting you have now come back to Mr. Ahern to tell him "look, I can tell you one thing for certain"?

A. Um.

372 Q. "Mr. Gogarty was a signature, was a signatory"?

A. Yes.

373 Q. Now, who was the other signatory?

A. There were other signatories at the time. I mean Mr. Reynolds would have been one, and I am sure Mr. Copsey was one as well.

374 Q. Now, you remember the question that was asked by Mr. Ahern, "could Mr. Gogarty have got money from JMSE"; you remember that?

A. I do.

375 Q. So now you have gone away and you have checked that Mr. Reynolds is a co-signatory?

A. No, Mr. Gogarty.

376 Q. Mr. Gogarty. Are you seriously suggesting that you didn't raise the issue with Mr. Reynolds as to whether or not there was a payment?

A. To Mr. Burke, and we would have dismissed it. The allegation being made was in connection with a bribe. We were selling the lands for agricultural prices. The whole thing was ridiculous.

377 Q. Forget about lands at agricultural prices --

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MR. COONEY: Just a moment please, Mr. Mohan must not interrupt the witness when he is answering.

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378 Q. MR. MOHAN: My apologies. Sorry Mr. Murphy, you were talking about lands at agricultural prices?

A. Yes, as I say we would have dismissed it. Because the allegations were being made in connection with these lands.

379 Q. No, but I am not -- I am talking about a payment, a large payment from a company of which you are integrally involved?

A. Yes.

380 Q. Allegations about bribes emanating from your company to politicians. The issue, and central issue is whether or

not a payment came from your company?

A. Yes.

381 Q. Whatever you knew before the first meeting you now knew before the second meeting?

A. Correct.

382 Q. That Mr. Reynolds had confirmed to you that Gogarty was a signature?

A. Correct.

383 Q. Did you not ask Mr. Reynolds was there a payment which Gogarty asked him to sign? In other words, a political payment which he is referring to in his statement?

A. No, I didn't ask him at that time did he sign a cheque for £30,000. As I say we were taking it in a general sense and he had no knowledge of a payment to a politician or to a political party at that time.

384 Q. He had no knowledge?

A. No.

385 Q. You asked him about that specifically?

A. Yes.

386 Q. Are you surprised now to see this in his statement?

A. No. This was discussed after the event when we were piecing it altogether and in consultation with our legal people and Mr. O'Keeffe and Mr. Copsy.

387 Q. Yes, but what is so different from the meeting or discussion you would have had with Mr. Reynolds between the first and second meeting and the subsequent meeting with your lawyers? This is an issue concerning the appointment of a member of the Cabinet, surely this is important to you?

A. Of course this is important, from the government side, yes, but as far as we were concerned at the time, we dismissed it. This statement was made afterwards. We were piecing

it altogether with Mr. O'Keefe, he had been out of our company for seven or eight years. We were piecing it altogether in consultation with our lawyers.

388 Q. When you discussed it beforehand you weren't able to put this together; is that your evidence?

A. We put it, the full investigation into operation when I got wind of a political contribution from Mr. Copsey on the afternoon after I met your client.

389 Q. Yes. Why did you ring my client for the second meeting?

A. As I say, it was a dual purpose, one was to tell him that Mr. Gogarty was a signature, and the second was to relay the conversation with Mr. Bailey.

390 Q. But you are going to meet him a second time at which you now give him further reassurance that no payment had been made; isn't that correct?

A. As far as I was concerned I checked and double-checked with my father and Mr. Reynolds and we were quite satisfied, yes.

391 Q. Do you think if you dealt with somebody and they told you they checked and rechecked in the context of payments, that you would take from that, that you had checked the actual payments?

A. I checked and rechecked with my father and Mr. Reynolds, as I say I did not believe these allegations at that time.

392 Q. You have conceded, and I believe accepted with Ms. Dillon when she was, I think questioning you, that you used the word "records"?

A. I may have said "we checked a record" in reference to the cheque journal.

393 Q. In reference to the cheque journal?

A. Yes.

394 Q. But you didn't say that to Mr. Ahern?

A. I don't know whether it was "cheque journal" or "record" or what I said to him, but that was the only check we had done at the time.

395 Q. You concede and accept you used the word "records"?

A. No. No, I may have used the word "records", "record" or "cheque journal" I am not one hundred percent sure.

396 Q. Well sorry, I can read from the transcript, which if you wish me to do so, but I had understood from --.

A. If it says "record" or "records", then fine, but the only record that I had checked at the time was the cheque journal. I am not sure if I used "record" or "records" with Mr. Ahern.

397 Q. I will just read from your account, so that we can see if that that is what you still accord with at this moment.

Day 112, page 45, question 177.

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MR. COONEY: Have you a reference for that?

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MS. DILLON: Page 45.

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MR. MOHAN: Sorry, it is Day 112. It is Monday the 6th of December, page 46. And I am reading from question 177.

The answer to that, question 178 and the answer to that. I don't know if you have a copy of this or can I read this to you or should I wait until you receive a copy?

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MS. DILLON: Yes, we will give him a copy.

(Transcript handed to witness)?

A. You can read it.

398 Q. MR. MOHAN: I should start at the question 176. "I know that you have two pages of transcript in front of you, we are looking specifically at question 56 and 57. Answer:

No, I did not say to Mr. Ahern that we had checked all the records. I was specific to the cheque journal.

Question: Limited only to the cheque journal.

Answer: "Yes, I mean I mightn't have mentioned cheque journal but I might have said record or I certainly did not say we had done a check throughout all the records, because we hadn't.

Question: Did you indicate that you had checked through some of the records or that Mr. Reynolds had checked through some of the records?

Answer: Yes, I may have said. I may have said we checked a record or something like that. The word "cheque journal" mightn't have been specifically mentioned, but I clearly never told him that we checked all the records. We hadn't we didn't do that until later".

The question I am putting to you in the context of those words, when you use the words, a man of your position in your company, that you "checked records", do you understand how that can give a very clear impression to the person, that you checked the financial records of your company"?

A. No. That is exactly my evidence here. I am not one hundred percent sure, specific to the cheque journal or record, or what, but I was not trying to give Mr. Ahern a false impression at all.

399 Q. You mislead Mr. Ahern?

A. I did not mislead Mr. Ahern. On two occasions I gave him the information that was available to me at that time, and I corrected that information on September the 10th.

400 Q. Sorry, whatever else happened, you gave him information which was incorrect and false?

A. No, I reject that. It was information I gave him that was

within my knowledge at the time.

401 Q. No, but the information you gave him was wrong?

A. The information I gave him was within my knowledge. Within my knowledge at the time.

402 Q. No, Mr. Murphy, do you understand the point I am putting to you?

A. I do.

403 Q. Do you not concede at this point that the information you gave him was wrong?

A. Yes, the information I gave him was wrong, but I gave it to him in good faith at the time.

404 Q. Whatever you say in relation to that, you do accept that the information you gave him was wrong?

A. Well obviously yes, the information was wrong, but it was unintentional. It was the information I had at the time, as I say I corrected that later.

405 Q. So, you are still maintaining you acted in good faith?

A. I acted in total good faith with him, yes.

406 Q. What happened was that you left Fitzers and walked down to Copsey's office?

A. Well, it was still in my head, we were obviously discussing - Mr. Ahern had said that the Party Leader, the Taoiseach then, I think was determined to rule out any form of possible corruption whatever else, it was still in my head and I decided to go down and have a discussion with Mr. Copsey.

407 Q. So it was Mr. Dermot Ahern's words that An Taoiseach, Bertie Ahern was going to root out corruption?

A. No, no, no. It was the whole scenario.

408 Q. What do you mean by "the whole scenario"?

A. The whole scenario. The articles, both my meetings with him, I suppose there was a slight concern, I think just

wanted to double-check again with Mr. Copsey.

409 Q. A slight concern?

A. Yes. As I say we had dismissed these as Mr. Gogarty's lies, and I decided I would go down to Mr. Copsey to double-check with him.

410 Q. For a person who has claimed to have acted in good faith, why did you not tell him you had a slight concern?

A. We said that, we ended that meeting as well, that we would keep in touch if anything new came up and I mightn't have said "I have a slight concern", or whatever, but I went to Mr. Copsey's office that day to double-check. I was fully expecting him to say "no", I was surprised.

411 Q. Sorry, Mr. Murphy, can I put the question again. This is a person you claim you acted in good faith with?

A. Yes.

412 Q. Why did you not tell him that you had, according to yourself, a "slight concern"?

A. I maybe, I know when I went to Mr. Copsey's office that I was fully expecting him to say "no", that he had no knowledge or anything like that. I was surprised like that. I was surprised. I just went to double-check with him. I think I only spoke to him on this issue on one previous occasion and I was going to double-check with him, probably to reinforce the fact that this wasn't true.

413 Q. What was your concern?

A. I was, as I said, obviously and I was fully expecting him to say "absolutely no". I was surprised when he told me that he remembered a political contribution.

414 Q. I will ask you again; what was your concern?

A. Well, the concern, I just wanted to double-check it again with him as he was the Financial Director at the time.

415 Q. What did you want to double-check?

A. To see if he knew about any payment to Mr. Burke.

416 Q. You had a conversation with him a month or six weeks prior to that sometime? May, of that year?

A. Correct.

417 Q. You spoke to him on the telephone?

A. Correct.

418 Q. Now, I want you to tell us exactly what he said to you on the telephone?

A. I think I discussed in general the few articles that had appeared. It was a general discussion about Gogarty. I think he says "oh, not him again". I don't think that Mr. Copsey, I may be wrong in this, I don't think that he was aware of those particular articles, but I gave him a brief on it. And I said that "he is making allegations that JMSE paid a sum of money to Ray Burke, do you know anything about it" and he said "no".

419 Q. How long did the phone call last for?

A. Oh I don't know, I don't know a minute, two minutes, three minutes.

420 Q. You didn't take a memo of that, did you?

A. No.

421 Q. Did you ask him specifically about any political donations?

A. No, it was specific to Mr. Burke.

422 Q. But sure what if money was paid to a third party in cheques transferred there, you didn't know, so why not be more circumspect about trying to inquire rather than ask direct questions?

A. The allegations were being made about Mr. Burke for a payment or a bribe. I asked him did he know about a payment to Mr. Burke that Mr. Gogarty was describing as a bribe. He said "no".

423 Q. So you asked him specifically about Ray Burke and he did,

he denied any donation; is that correct?

A. Correct, yes.

424 Q. Are you saying that you asked him about political donations in general?

A. No.

425 Q. Why did you not ask him?

A. Because the allegation was being made specifically to Mr. Burke and specific to a bribe. I was specific to that.

426 Q. But you are a shrewd man, you knew the ways of the world, that money doesn't go literally from A to B?

A. Hindsight is a great thing, Mr. Mohan.

427 Q. This is about a bribe to a politician?

A. That is exactly what I asked Mr. Copsy at the time, that Mr. Gogarty was making allegations of a bribe to Mr. Burke and he said that he knew nothing about it.

428 Q. But the idea that if it is a bribe that it is going to appear in large block capitals on your book in a form of a cheque to Ray Burke in the sum of £40,000 or whatever, I mean sure you wouldn't expect that or would you?

A. I didn't know. This is all new me. I certainly never paid a bribe to anybody in my life.

429 Q. Would you except that, would you except if it was a bribe if there was a bribe on the books, would you except it to be there, sort of --.

A. That is pure speculation. I have never paid a bribe to anybody in my life.

430 Q. Would you expect it to be there? Would you expect it to be in that form sitting there?

A. Saying "a bribe"?

431 Q. Yes, saying "£40,000 Ray Burke payment", if it was a bribe?

A. I don't know what form, as I say I have never paid anyone a bribe in my life.

432 Q. I am not suggesting that you have. What I am suggesting to you is that you would know full well that in order to inquire into whether or not money came from your company that you would have to conduct a reasonable inquiry, not even a thorough one, but a reasonable inquiry?

A. Correct. This was the extent of the inquiry at the time. The full and thorough inquiry happened afterwards.

433 Q. You see, Ray Burke had now been appointed?

A. He had.

434 Q. With a bit of luck this whole thing would go away again, wouldn't it?

A. Absolutely not.

435 Q. Much better for you if it goes away --

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MR. COONEY: That is comment Mr. Chairman and not cross-examination.

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436 Q. MR. MOHAN: I put it to you as a question, as a motive, if this entire affair had gone away would you be sitting here today; do you believe?

A. That is pure speculation; I think events overtook that and we put in a detailed investigation where we, where we found all the different documentation which described the Burke payment.

437 Q. So Mr. Copsy says "no" to the specific question. You go to the meeting, the second meeting now with Mr. Ahern, you deal with him, according to yourself in good faith, but have doubts which do you not explain to him but go to Mr. Copsy?

A. As I said I was going to Mr. Copsy and fully expecting him to endorse what I had been told by Frank Reynolds, my father and Mr. Copsy had been out of the company for a

long time.

438 Q. And Mr. Copsey explains to you that a political donation does surface, or is around?

A. As I said in my evidence, he said he remembered something of a sort of political contribution, but he couldn't be, but he couldn't be specific to whom or what party or when.

439 Q. To whom or to what party? Did you quiz him further on it?

A. I did.

440 Q. What did he tell you?

A. He says he didn't know anything else about it.

441 Q. Did he mention --.

A. I told him he again, repeated the allegations and all that and we would have discussed it, but it was ridiculous, we were selling the lands at the time and we would have had a general discussion about, he wasn't able to fill me in anymore than some sort of a political contribution at that time. I think he mentioned Jim Gogarty.

442 Q. Did he mention Denis McArdle?

A. No.

443 Q. You know in his statement he does?

A. Maybe he does, yes.

444 Q. You are familiar with the statement, I assume?

A. Well, I wouldn't have read it for a while, I don't think.

445 Q. Well, can I again read a portion of his statement to you, if I may? I wonder if Ms. Dillon could furnish him a copy of the statement because I have again only my own copy.

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MS. DILLON: If Mr. Mohan would just wait until we get it to the witness --

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MR. MOHAN: Of course. (Document handed to witness)

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MR. COONEY: Wait a moment until I get it.

446 Q. MR. MOHAN: I wonder has Mr. Cooney got a copy of the statement?

MR. COONEY: I have. Could you identify the passage please?

447 Q. MR. MOHAN: If you go through the statement, I don't think it is done in paragraph four. It is under "30,000 payment to Ray Burke"?

A. Yes.

448 Q. I think I should probably read that in its entirety to you. "My memory of this incident was that James Gogarty informed me that political donation of this amount was to be made and asked me to arrange for the money from within the Murphy Group of companies. I understand Mr. Denis McArdle, solicitor, has a note of me telephoning him in relation to making the payment out of monies held by him on behalf of the Group.

I accept that I did call him. It would not have been unusual practice for me to clear certain matters with Denis McArdle when requesting sums of money for various activities. I cannot recall the sequence of events in detail, but I presume from a logistics point of view that Mr. Gogarty would have asked me for the money. I would have advised him that it would not be possible to take such funds from the JMSE account and I would have advised that Denis McArdle was holding company money from a previous sale. I understand that Mr. Gogarty subsequently telephoned Denis McArdle and instructed him not to transfer the money to JMSE. Mr. Gogarty informed me that part or all of the political donation would be made in cash as the

election was imminent and the party had a need for immediate cash for posters, helpers and other campaign expenses.

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I do not recall that James Gogarty identified the political party to whom the donation was made and I have no recollection of a Mr. Burke being mentioned. In relation to the letter of the 8th of June of 1989 from Michael Bailey to James Gogarty, I do not recall seeing this letter until it was printed in the newspaper".

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Now you have had at this stage as I understand it, the first telephone meeting, call, which is in May of 1987 which you have asked him a specific question about a money payment to Burke and in which he says it doesn't happen?

A. Yes, correct.

449 Q. You say you didn't bother to ask him about whether or not there were any particular sizable political donations?

A. Yes.

450 Q. This is the second meeting the afternoon of the Fitzers meeting, you go to his office, he now tells you about a political donation?

A. Some sort of a political donation, yes.

451 Q. £30,000 of a political donation?

A. No, he wasn't specific, as I say, to amounts. He wasn't specific to whom or when.

452 Q. Yes. But he did tell you about Denis McArdle.

A. I don't think he mentioned Denis McArdle. He said, as I say this statement was put together long after we pieced all the information together.

453 Q. You seem to think --

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MR. COONEY: Sorry, Mr. Chairman it is abundantly clear that this statement by Mr. Copsey was furnished to the Tribunal in December of last year, 1998, and that statement was put together as a result of the investigation which had occurred up to that date and it doesn't do My Friend any good to pretend otherwise. It is not fair to the witness.

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MR. MOHAN: If I may answer that? Mr. Cooney is now giving evidence himself.

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MR. COONEY: I haven't finished yet. Mr. Copsey in this statement states specifics, of course "I understand Mr. Denis McArdle, solicitor, has a note of me telephoning him" he is referring, of course, to information which is obtained from Mr. McArdle at a time subsequent to June and the 1st of July, 1997.

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MR. MOHAN: Mr. Chairman, I object to Mr. Cooney inferring in this manner. I am cross-examining this witness who has made unsavoury comments, if I can put it that way, against my client. I am putting a very specific point to him. The moment I put the point to him Mr. Cooney saw fit to stand up and give evidence and then to explain a point.

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MR. COONEY: No, I stood up to prevent an unfair examination based on a misleading interpretation of what this statement contains.

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MR. MOHAN: With the greatest of respect, I haven't put any interpretation on it.

MR. COONEY: Sorry, I will address you, Mr. Chairman. You

will already --

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CHAIRMAN: Please, this is again an exchange between counsel which is something I object to and I am not going to tolerate it at all.

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MR. COONEY: Sir, it is not an exchange between counsel, as far as I am concerned it is a submission I am making to you, Mr. Chairman, based on the rules of evidence and whether or not it has any legal merit is a matter for you. I respectfully submit that the manner in which Mr. Mohan has been putting this statement to Mr. Murphy is unfair and misleading because it doesn't take into account (A) when the statement was made and (B) the actual contents of the statement itself and the passage upon which he is relying in particular

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CHAIRMAN: Again Mr. Cooney, that is - listening to you and undoubtedly it is cogent, but what you are saying is a matter of submission rather than objection. It is a matter of saying this to me, this should not be given that quality, the statement, because of these defects, they don't arise.

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MR. COONEY: I am saying sorry, Mr. Chairman, obviously I haven't made myself clear to you. I will repeat my submission. I am saying to you that Mr. Mohan's question is unfair because it doesn't proceed, and he doesn't reveal two matters which effect us, (A) the date when the was made and when the statement was made and (B) the fact that Mr. Copsy clearly says in this statement at the time he made the statement, he obtained information the source of which

was Mr. McArdle, and the attendance is kept by Mr. McArdle. Now, the question put to by Mr. Mohan to Mr. Murphy was posited on a completely different assumption, which is unfair to Mr. Murphy. That is the thrust of my objection, Mr. Chairman.

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MS. DILLON: If I could just intervene here? Mr. Cooney, in his first objection to Mr. Mohan's question said as follows: "Chairman, it is abundantly clear that this statement from Mr. Copsey was furnished to the Tribunal in December last year, 1998" and that is correct and it is at the bottom of the statement and that statement was put together as a result of the investigation which had occurred up to that date. That doesn't appear anywhere in the statement of Mr. Copsey. And I don't know how Mr. Cooney is in a position to tell the Tribunal that Mr. Copsey's statement was put together as a result of investigations which had occurred up to December 1998, when Mr. Copsey did not see fit to put that into his statement himself. And I would have to agree with Mr. Mohan that Mr. Cooney appeared to be giving evidence in relation to that statement.

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He goes on to say, "and it doesn't do My Friend any good to pretend otherwise," now it is extremely hard for Mr. Mohan to know and put his questions in the context that this statement was put together, as a result of investigations carried out up to December of 1998 when the first time that anybody became aware that that was the position, was when Mr. Cooney told us approximately five minutes ago.

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Now, Mr. Mohan then interjected and said, I think

correctly, that Mr. Cooney was now giving evidence, at which stage Mr. Cooney continued to say "I haven't finished yet. Mr. Copsey in this statement states specifically of course", quoting, "I understand Mr. Denis McArdle, solicitor, has a note of me telephoning him", he is referring of course to information which is obtained from Mr. McArdle at the time subsequent to June and the 1st of July of 1997; but if one looks at Mr. Copsey's statement referring to that, he does not say in his statement that he obtained that information subsequent to June and the 1st of July of 1997. And again I must agree with Mr. Mohan, that Mr. Cooney was giving evidence in relation to that because the statement itself does not make that statement. I would support Mr. Mohan in relation to his application.

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MR. COONEY: Could I just reply very briefly? I have heard some bizarre statements in the Tribunal in the last 11 months, the one by Ms. Dillon features the most bizarre. She herself introduced evidence during the cross-examination of Mr. Murphy, which included the documentation and attendances which were obtained from Mr. McArdle. She knows of the existence of this documentation. She knows of the dates. I cannot understand her interruption in view of that knowledge. It is extraordinary.

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MS. DILLON: I must reply to that. My interruption was based on the fact that Mr. Cooney in his submission introduced two new pieces of evidence in answer to Mr. Mohan. That was what my interruption was based on. I have, of course, put all of the documentation before you, Sir, and that is my job and Mr. Cooney's last response is

not a response to the submission I made to you. Thank you.

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CHAIRMAN: Thank you.

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MR. MOHAN: Mr. Chairman, I just want to say briefly if I may, that what I am attempting to do is to put a statement from Mr. Copsey, obviously we will hear from him in due course, to this witness who had one conversation and a meeting with this gentleman that is going to give evidence. It was at a time when I was putting this very blunt point to the witness, it was at that very moment that Mr. Cooney intervened and I take exception to the moment that he intervened.

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CHAIRMAN: Now --

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MR. MOHAN: Because I saw it in a way in which he was attempting to give evidence at a time when the witness should have been obliged to answer the question I was putting.

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CHAIRMAN: Can we go back, can you scroll this back for me? Just a moment. I want to go back to where the interruption started.

I think this all started, you had just read the statement of Mr. Copsey.

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MR. MOHAN: Yes Chairman.

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MR. COONEY: It was just before that.

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MR. MOHAN: I want to put --

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CHAIRMAN: I want to be fair. I want to go back to this and try and get on the record what is the evidence. Not so much what is the argument.

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MR. MOHAN: What I simply want to do, I want to put, obviously I have read the statement, I now want to put a number of questions to the witness in the context of his discussions with Mr. Copsy. In the light of this being, his statement to the Tribunal. I don't think that is unreasonable and I think it is well within the bounds --

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CHAIRMAN: We can redo it, but on the basis that you are putting questions to this witness as to what Mr. Copsy did or did not say to him --

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MR. COONEY: At a specific time Mr. Chairman.

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CHAIRMAN: At this time.

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MR. COONEY: I think Mr. Mohan was asking him about Mr. Murphy, about the conversation he had with Mr. Copsy in May of 1997. He then goes on to say "did Mr. Copsy not mention Mr. McArdle", Mr. Murphy says "no" and then he goes to Mr. Copsy's statement where Mr. Copsy says he refers to Mr. McArdle. They are two completely different things.

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MR. MOHAN: No, in fact if I may, that is not what I did. I know what happened at the telephone conversation and in fairness I have heard what the witness said in that regard. He said - he can correct me if I am wrong - I

asked him a specific question which Mr. Copsey denied, said that he was not aware of any payment to Mr. Ray Burke. I asked the witness did he then put a question in general terms about any political donation. The witness says "no, he didn't do that". I asked him about that and may have criticised him about that, but he was adamant that he didn't put that question. Then I went to deal with the meeting. This is the meeting after Fitzers on the afternoon of Fitzers. It was in the context of what happened at that meeting that I wanted to put a number of questions in relation to what Mr. Copsey has said.

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CHAIRMAN: Certainly your recollection of what you did is exactly what is on the screen in front of me. Absolutely.

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MR. MOHAN: If I may know Mr. Murphy --

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CHAIRMAN: What you said was some - sorry - this is the second meeting, the afternoon of Fitzers meeting. "You go to the office. He now tells you about a political donation, that is Copsey tells about a political donation.

Some sort of political donation, yes

Question: £30,000 of a political donation? Mr. Mohan:

Mr. Murphy Jnr. says he wasn't specific, as I say to amounts. He wasn't specific to whom or when". Just a moment until we get it up again.

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The answer to that, sorry the question you then put was "yes, did he tell you about Denis McArdle", that is where Denis McArdle came in. I don't think he mentioned Denis McArdle, he said, as I say, this statement was, he said as I say this statement was put together long after we pieced

all the information," so in other words what the witness is saying did not refer to Denis McArdle.

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MR. COONEY: Then I think Mr. Mohan goes on to refer to Mr. Copey's written statement.

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CHAIRMAN: We will take it further. You interrupted at that time that moment. "Chairman, it is abundantly clear that this statement by Mr. Copey was furnished to the Tribunal in December last year, 1998, and that statement was put together as a result of investigation which occurred up to that date and it doesn't do My Friend any good to pretend otherwise. Such, otherwise, such it is not fair to the witness". Now, that is precisely the beginning of your objection. Now what you are saying there is the fact that it is in his statement that he refers to Mr. McArdle, couldn't have been available to him at the time he was discussing this matter with Mr. Ahern.

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MR. COONEY: It seems to me that Mr. Mohan was making a jump from a question which he asked Mr. Murphy about a conversation that Mr. Murphy had in 1st of July, 1997, from that time, he is jumping from that on to Mr. Copey's statement which was made about a year and a half ago.

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MR. MOHAN: In fairness that is not what I am trying to do at all.

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CHAIRMAN: Well, taking it from that point.

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MR. MOHAN: What I want to do, Mr. Chairman, I can't understand that Mr. Cooney can take exception to this. I

want to ask the witness about what transpired at Mr. Copsey's office between these two gentlemen and I am asking those questions in the light of what Mr. Copsey has now put on statement.

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CHAIRMAN: I think we are entitled to know the state of his mind immediately, his state of knowledge immediately after the interview on the telephone. I think we are perfectly entitled to know that. That is information that comes from Mr. Copsey.

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MR. COONEY: Of course.

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CHAIRMAN: In the immediate, and I am talking about the immediate, and what Mr. Copsey says, not what Mr. Copsey says in his statement.

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MR. COONEY: Yes.

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CHAIRMAN: I think we are perfectly entitled to know that.

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MR. MOHAN: If fairness that was all I am asking, the record should show that.

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CHAIRMAN: We did stray into the statement. Undoubtedly the statement contains information which he couldn't have at the time. That he didn't have at the time.

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MR. MOHAN: Whether it does or does not, that is a matter for Mr. Copsey to explain.

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CHAIRMAN: The McArdle information was unlikely to be available to Mr. Copey at the time.

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454 Q. MR. MOHAN: If I may, Mr. Murphy, did he mention the name "Denis McArdle" to you at that meeting?

A. No, no, I have no recollection of him mentioning Mr. McArdle's name.

455 Q. What did he, will you then please tell us what he did tell you?

A. I have gone over it over and over again.

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CHAIRMAN: I know you might have gone over it. Would you kindly tell us now?

A. What he said was that he remembered some sort of a political contribution, I tried to explore it further. He says he didn't know to whom, when it was paid or what for, if there was any purpose. He remembered, I think in connection with Mr. Gogarty, we would have expanded that conversation into what the allegations Mr. Gogarty was making, and we would have dismissed them because as I say, the lands were sold.

456 Q. So this information that now a political donation had been made, must have set alarm bells ringing in your head?

A. Yes, I suppose they did, yes.

457 Q. So what did you immediately do?

A. I think that we started looking, I think in the company records, we had meetings with our solicitors, as I say everything was happening so fast at that time, and we were trying to look for the information. I made numerous contacts with Mr. McArdle.

458 Q. Sorry, what was happening so fast?

A. As I say meetings, personal - I had some personal

problems. I had a business to run and on top of this numerous consultations with my solicitors.

459 Q. So let me get this straight?

A. And putting an investigation in train as well.

460 Q. So sending somebody down to Denis McArdle's office, how long would that take?

A. Mr. Mohan, you have taken this out of context. Mr. McArdle tragically had some personal difficulties himself and his wife, they were very ill at the time. Mr. McArdle, I don't think he was very hard to contact.

461 Q. No, that is not the point I am making. I am talking about sending somebody down to Mr. McArdle's office to take a look at the file?

A. I didn't send anybody down to look at the file. I was trying to get in contact with him, myself and my solicitor was trying to get in contact with him.

462 Q. You see Mr. Murphy, at one level you talk about how difficult this whole saga is; difficult for you and your company, your good name as had been traduced and your reputation and all of that. That this is a matter of some significance to you, yet at another level you seem to do little or nothing about it; in other words doing the proper and ordinary; I am not talking about thorough, but reasonable inquiries that anybody would expect from you?

A. No, I reject that.

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MR. COONEY: That is unreasonable, it is an argument. That is not a question for cross-examination.

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CHAIRMAN: Wait now. He is entitled to put that. He has got a denial. He does not accept it?

A. I am not accepting that, no.

463 Q. MR. MOHAN: Now, you are adamant that Mr. Copsey did not mention £30,000 to you, are you?

A. Yes.

464 Q. So when you got the McArdle file where we know what, the memo says in it, what did you think then?

A. Well, I think by the time we got that file and got some other information in JMSE, Mr. Burke had come out with a statement admitting that he had got the money from JMSE. We would have been horrified at the time, yes.

465 Q. This is JMSE 1.7-008 it has been open before.

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MS. DILLON: If you could give us that reference, slightly slower?

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MR. MOHAN: JMSE 1.7-008. It is a memo of a conversation, appears to be a memo of a conversation between Mr. McArdle and Mr. Copsey. The witness I think is familiar with it.

It was open to him by Ms. Dillon. .

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MS. DILLON: If we could have the date of the memo? The date of the memo, Mr. Mohan, please?

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MR. MOHAN: It is the 8th of June, 1989.

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MR. COONEY: It is an attendance. I think it is one of the attendances which has been already opened.

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CHAIRMAN: It is the, is it the attendance with the question-mark on it?

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MR. MOHAN: Yes, that is the one Chairman. I don't know if it is coming up on your screen Mr. Murphy?

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CHAIRMAN: Just a moment, we will print a copy for the witness. It will be available in a matter of minutes.

Have you got a copy? (Document handed to witness) I think the witness now has a copy.

466 Q. MR. MOHAN: You are familiar with this, Mr. Murphy?

A. I am, yes.

467 Q. What did you think when you saw that?

A. Well, obviously we were trying to piece it all together. This was the final piece, I think in the monies that had been paid over to Mr. Burke.

468 Q. Yes, but I mean was that, this is just - that is what the £30,000 came from. Did you, were you startled or shocked when you saw that?

A. I thought "what has Gogarty done" "what has Gogarty done". Yes I thought, I was startled. £30,000 was a lot of money.

469 Q. Not what Gogarty has done, what has Copsey done, Mr. Copsey done?

A. I think that you should put this in context with Mr. McArdle's statement, because Mr. McArdle explains why he put the question-mark over it. And he specifically in his statement remembers Mr. Copsey mentioning Mr. Gogarty.

470 Q. No. I am just curious to see what you felt yourself when you read that document for the first time. Of course --.

A. It would have confirmed, it would have confirmed --

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MR. COONEY: Sorry for interrupting again Mr. Chairman. Mr. Mohan knows well that that document did not come to Mr. Murphy in isolation, it came with other documents which together formed a particular picture, with respect Mr. Chairman.

MR. MOHAN: And if the witness wants to describe that to me, then that is fine, but I must be able to put it to him, the context of it, in the context of the credibility of this witness.

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CHAIRMAN: I agree with you. Carry on.

471 Q. MR. MOHAN: Now, what did you think when you got that document, Mr. Murphy?

A. As I said this was the final piece of the jigsaw of the contribution to Mr. Burke.

472 Q. So Mr. Copey rings up and says "£30,000 wanted today. If possible £10,000 cheque, £20,000 cash, June 15th election, contribution? I told him I could not get cash but it could be in the form of a bank draft". Now, 30,000 is a lot of money, I heard you agree with that statement I think it was yesterday or the day before?

A. It is indeed, yes.

473 Q. How many years have you been in business yourself?

A. I have been involved in the business since '85 in the UK.

474 Q. You are now at the helm and have been for a number of years of a very large company?

A. Yes.

475 Q. And you have myriad of companies both in Ireland and England of which you have an involvement?

A. Yes.

476 Q. Is that correct?

A. Yes.

477 Q. I put it to you that if you had made a £10,000 political donation at some time, say in the last 5, 10; 8, 9, 10 years would you remember it?

A. Yes, but I don't make political contributions of that size, Mr. Mohan. The question is pure speculation.

478 Q. Would you remember it though?

A. I don't know. I mean it is pure speculation. I would not and have never made contributions of that size.

479 Q. No, but for that very reason if it was made you would remember it Mr. Murphy?

A. As I say it is pure speculation. I have never made a political contribution myself of that size.

480 Q. The point I am making to you is that £30,000 is a very large sum of money?

A. Of course it is.

481 Q. A payment of £30,000 to a politician is itself, may I suggest to you, an extraordinary act?

A. Yes.

482 Q. It is something that sits out, it is different?

A. Yes.

483 Q. And for a man and I think you have agreed with me, that if you had been in anyway involved in this, not only would you remember it, you would never forget it, I suggest to you?

A. I wouldn't have been involved in it, in this. I wasn't involved in it. I wouldn't ever personally give that amount to --

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CHAIRMAN: Mr. Murphy, that wasn't the question you were asked, with due respect. I don't wish to be rude to you.

You were asked if you had made donation of £30,000 would you recall that event?

A. Yes. Yes.

484 Q. If --

A. I would accept that, yes.

485 Q. If it was made for a fraction of that you would remember it, Mr. Murphy, I suggest to you?

A. Yes.

486 Q. And here we have a written note to that effect; isn't that so?

A. That's correct, yes.

487 Q. Turn over the page if you may?

A. I only have one page.

488 Q. Sorry, this is now, if I may the JMSE 1.7-9. This is, I think, signed by "Eilish" on the 8th of the 6th 1989.

Again Roger Copsey, it seems to be an attendance of a phone call. I wonder has Miss Dillon any copy?

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MS. DILLON: Yes. We will get a copy for this witness.

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489 Q. MR. MOHAN: I only have my own copies. You have a copy Mr. Murphy?

A. I do.

490 Q. Headed Roger Copsey. "Said to forget call of this morning and "at his reasonable leisure" draw up a cheque for clients account for £30,000 payable to JMSE". Can I suggest to you that that is not a fairly typical memorandum of a conversation in a professional context "forget the call of this morning"?

A. You know this is between Roger Copsey and Mr. McArdle.

491 Q. Yes, but it is your money, Mr. Murphy, that is why I am asking you about this.

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MR. COONEY: With respect, Mr. Chairman, Mr. Mohan is asking this witness to look inside Mr. Copsey's mind and to tell this Tribunal what Mr. Copsey is thinking. That is plainly unfair and it is wrong .

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CHAIRMAN: He is asking this witness to look at the statement in the context of the earlier document.

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MR. COONEY: Yes.

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CHAIRMAN: As a person expressing an opinion. As a
businessman.

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MR. COONEY: We know, Mr. Chairman, that Mr. Copsey has
furnished a statement to this Tribunal, that he will be
called to give evidence. He is the person to whom these
questions should be directed. It is unfair to ask this
witness what was going through Mr. Copsey's mind at that
time or what would he remember of this transaction. That
is plainly unfair and unreasonable, Mr. Chairman, and
should not, in my respectful submission, be allowed.

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MR. MOHAN: If I can answer that. Mr. Cooney is yet again
being opportune in his intervention. I am -- Mr. Cooney
knows that that is central to this witness' credibility.

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MR. COONEY: His credibility can only be attacked, Mr.
Chairman, as to his memory of particular events or his lack
of memory or supposed lack of memory. His credibility
cannot be attacked on the basis that he should know what is
going on in somebody else's mind. That is plainly
nonsensical, Mr. Chairman, it is not a proper test of a
witnesses credibility.

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CHAIRMAN: I think that Mr. Cooney has a point in what he
is saying there. Remember this, this must be read in the
context, that this document was not available to the
witness when he was talking to Mr. Copsey in June, I am
sorry, am I right in that? In July, on the afternoon of

the 1st of July. He didn't have this. This is, it is wisdom of hindsight after that.

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MR. MOHAN: I appreciate that.

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CHAIRMAN: One can't ask him, you can point out to him, I think you are entitled and right to point out that the next memorandum is that, the request is withdrawn, if I may put it that way, within a matters matter of hours. I don't know what you are going on to next, but I happen to be here and know the sequence of events next, but I think you want to develop; if you want to develop what happens next, by all means you are free to do that.

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MR. MOHAN: If I may, you know the next letter is the request for the cheque for £30,000.

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CHAIRMAN: That is the cheque from McArdle?

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492 Q. MR. MOHAN: From the ICC. Sorry if I could just stop there for a moment, what I am putting to you, Mr. Murphy, is this: You have given an account to this Tribunal of a meeting and of which you asked one specific question. Got a specific denial. You had a second --

A. No, a telephone conversation.

493 Q. A telephone conversation. A second meeting on the afternoon of the Fitzers meeting at which you now have a general conversation. Your testimony to this Tribunal is that there was no mention of any specific amount, no mention of other than a political donation?

A. Correct. Some sort of a political donation.

494 Q. When you saw these documents, did it strike you as

extremely odd that Mr. Copsey hadn't remembered the fine print and detail?

A. No.

495 Q. No?

A. No. Mr. Copsey would have been dealing with various different amounts of money at the time, and you know, that is obviously a matter for his evidence.

496 Q. Yes, so this is fairly normal and typical, according to your own evidence?

A. Well, Mr. Copsey will have to deal with this.

497 Q. No. Sorry, what you thought when you saw that, did it not strike you as extremely odd that this type of documentation was there and this man, Mr. Copsey, remembered nothing along those lines?

A. No. These were a long time previous. His memory, when we pieced it altogether with the documentation. Obviously it engaged his memory a little bit more.

498 Q. You would control a bigger company than Mr. Copsey, wouldn't you?

A. Sorry?

499 Q. You would control a bigger outfit than Mr. Copsey, wouldn't you?

A. What do you mean by that?

500 Q. JMSE. Here, your sister company in England, would you have a larger enterprise?

A. Than Mr. Copsey?

501 Q. Than Mr. Copsey?

A. Correct. Yes.

502 Q. What I mean by that is, I put a question to you not ten, 15 minutes ago, where I suggested to you that if a political donation in the sum of a fraction of £30,000 had been made you would remember it and you agreed with that?

A. Yes.

503 Q. Now, did this not strike you as the most bizarre thing in the world that Mr. Copsey couldn't tell but a £30,000 payment political donation in the very month that we have been talking about?

A. You are asking me about Copsey's memory.

504 Q. No, I am asking you about what was your reaction. I am not asking you about Mr. Copsey's answer, I am asking you.

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MR. COONEY: Sorry, Mr. Mohan must allow the witness to finish his answer.

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505 Q. MR. MOHAN: I am not asking you about Mr. Copsey. I am asking you about you; how you felt when you read this documentation?

A. No, I wasn't surprised, Mr. Copsey would have dealt with various different amounts of money interacting with various different companies at the time. And if you are asking me was I surprised or horrified that he couldn't remember this until we pieced it altogether, no.

506 Q. Anyway, that is your evidence to the Tribunal?

A. Yes.

507 Q. Mr. Reynolds, we know what he said in his statement. Is he still the Managing Director of JMSE?

A. He is.

508 Q. You don't take any umbridge with the fact that he didn't take up on this cheque for £30,000?

A. He had no knowledge.

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MR. COONEY: There was no cheque for £30,000.

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MR. MOHAN: Sorry, payment of £30,000.

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CHAIRMAN: Payment.

A. He has informed me that he has no knowledge of the payment to Mr. Burke.

509 Q. MR. MOHAN: Yes. It is not as clear as that, as you know, according to his statement?

A. Yes.

510 Q. Anyway it didn't strike you as odd or in anyway strange that he couldn't remember it either?

A. Yes; and he still doesn't remember it.

511 Q. Yes, still doesn't?

A. Yes, he doesn't remember any payment to Mr. Burke.

512 Q. You see we have Mr. Copsey, we have Mr. Reynolds, we have Mr. O'Keefe, we have the late Mr. McArdle, we have a line of people all of whom are intricately involved, if I may put it, in the most unorthodox payment that you can imagine?

A. I would not agree. I think all of those people, that you mentioned in their statements, they had no knowledge of a payment to Mr. Burke.

513 Q. They had no knowledge?

A. Yes.

514 Q. It is the mantra, that is it, they had no knowledge?

A. No, no, they had no knowledge of a payment to Mr. Burke.

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MR. COONEY: Mr. Mohan is going well out side your --

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CHAIRMAN: Yes. It is a mantra. It is a comment. There is no doubt about that.

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MR. COONEY: Also Mr. Chairman, he is well outside his brief now to represent Mr. Ahern here. I mean Mr. Murphy

has had a hostile examination from Ms. Dillon, another from Mr. Callanan.

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MS. DILLON: I object to that.

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MR. COONEY: There must be some limit to this. I have Mr. Mohan cross-examining directly in his client's interest.

He is going well outside this limit now. It is just plainly unfair to this witness, Mr. Chairman, at the end of six days.

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MS. DILLON: On behalf of the Tribunal, Sir, I object to Mr. Cooney calling my examination of this witness as hostile, as I objected to all of his allegations as they are scattered numerously throughout the transcript as unfair, prejudiced and prejudicial content. In each case Mr. Cooney has singly failed to point to one thing on the transcript which he says is unfair, to make one comparison on the transcript where he says is unfair and as I have rejected this allegation before, so shall I continue to reject the allegation again. Thank you Sir.

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CHAIRMAN: Thank you.

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515 Q. MR. MOHAN: I will move on. Can I go back to the, you have left now the meeting and you know about a political donation, a sizable political donation. Why did you not pick up the phone and ring Dermot Ahern and say, "just wait a minute here, everything is not what it may appear to be"?

A. I explained earlier on, that my priorities had changed.

That with various consultations with our lawyers we were interested in protecting our good name and the name of our

companies. That various letters may have gone out, I think proceedings had actually been issued. I had personal problems and a company to run. We wanted to piece the whole thing together.

516 Q. All that happened in, say the two hours after you left Mr. Copsey's office. I am talking about the meeting after you left Mr. Copsey?

A. Oh.

517 Q. You understand the point I am making, Mr. Murphy? You have had lunch with a Minister and you have now mislead him for the second time?

A. No, I reject that.

518 Q. Sure you have mislead him, you have given him incorrect information?

A. The information that I had at that time.

519 Q. But sorry, that has changed now. You have gone to a meeting with Mr. Copsey, who has now told you something quite significant in the scheme of this, you have a niggling doubt, remember in your mind, according to your own evidence, that is?

A. My evidence is that I went back to double-check with Mr. Copsey. I was fully expecting him to reiterate what I heard from my father and Mr. Reynolds.

520 Q. But he didn't, he told you?

A. That's right.

521 Q. Yes. He told you specific information according to your own account which you agree with me, that set alarm bells ringing?

A. That's right, yes.

522 Q. The number that you were given; why not pick it up and dial it and say "Minister, look I am sorry, I have lead you a merry dance on this one, there is something here, you

better put it on hold here"?

A. No. We wanted to put the whole thing together.

523 Q. You have given him wrong information. You must correct that, you understand?

A. I corrected it later on. He gave me an opportunity to correct it later on, September the 10th.

524 Q. Yes?

A. We wanted to piece the whole thing together.

525 Q. You hadn't up to this point?

A. No.

526 Q. You were worried about your reputation of your company and all of that and yet you didn't want to piece it together up until this point?

A. We were putting it together in the July and August period.

527 Q. Mr. Murphy, you were going to keep your fingers crossed and hope that this thing went away?

A. Not at all, absolutely not, completely untrue.

528 Q. Would you accept that you ceased to act in good faith with Dermot Ahern as and from the time that you left Mr. Copsey's office?

A. No, I would not.

529 Q. You take it as far as -- everything was fine?

A. As I say, my priority had changed and in the beginning of August Mr. Burke came out and he admitted in a public statement that he received the monies from JMSE and we were piecing it all together. I availed of the opportunity when your client rang me on the 10th to explain to him.

530 Q. I will come to the phone calls in a minute. I am not talking about August, I am talking about the 1st of July?

A. Yes.

531 Q. I am talking about the time that you left Copsey's office?

A. Yes.

532 Q. You have a phone in your pocket, you know now that?

A. No, I hadn't a phone in my pocket.

533 Q. Well, there is a phone available to you that evening and for the next month?

A. Yes. No. I didn't ring your client because I wanted to wait until we had it all pieced together.

534 Q. And he now is suffering under the misapprehension of the incorrect and false and misleading information that you have given him?

A. This was the first occasion that I am aware of that he was suffering.

535 Q. You think it is okay then?

A. No. Mr. Burke came out with a statement in the Dail and he would have been aware of that, that it was, it was something in the back of my mind that, yes, I must get back to Mr. Ahern sometime and I said, I availed of that opportunity on September the 10th.

536 Q. No, but you say availed of an opportunity when Mr. Ahern rang you?

A. That's correct.

537 Q. The reality being you never would have rung him?

A. I would have rung him, yes.

538 Q. When?

A. Well, as I say he, I availed of the opportunity when he rang me. I would definitely have rung him. I mean, sorry --

539 Q. No, I want to - I want to know what was the priority that changed that evening that you didn't ring him. You say and you used the phrase and you have used it, I would suggest I don't want to suggest, but I will, a "mantra" that "my priorities changed", what was your priority that changed on the 1st of July?

A. Well, as I say my priorities changed. There was various articles being written in the newspapers, we wanted to protect JMSE, our good name, we were having various consultations with our solicitors. I was trying to run a business in the UK, and as I said I had family medical matters, I was very busy.

540 Q. So Dermot Ahern didn't really matter to you at this point, despite the fact that you had arranged the second meeting?

A. I wouldn't say that Dermot Ahern didn't matter to me. It was in the back of my mind that I would have to get and get in touch with him when we had pieced it altogether.

541 Q. We come to the phone calls. Now, you prepared a memo of that sequence, as you saw it?

A. Um.

542 Q. When did you prepare that?

A. The day after the phone call.

543 Q. You didn't prepare a memo of either of the two meetings?

A. No.

544 Q. Why would you prepare a memo of phone calls and not prepare a memo of each of the meetings? Surely the meetings are the more important?

A. No, because Mr. Ahern rang me on the morning of the 10th, as I have given evidence; where he said he was trying to help Mr. Burke, I think he used the word "ammunition" or to attack the Opposition, and it was because he ended up by saying that they would have no problem if the speech didn't work, "putting him out to grass", I just started thinking and as I said I had just started thinking and I made a memo.

545 Q. Wait a minute; you started thinking because of something that has no direct or indirect concern to you whatsoever, according to your own account, that you thought that was

now worthy of making a note of?

A. Yes; he was ringing to help him and then in the end he said they had to problem with putting him out to grass.

546 Q. This is why you decided to make a memo of this?

A. Yes.

547 Q. You see, why not put into the memo, the information; the salient information, the important information. Why all this other stuff?

A. The important information was in the memo. In the phone calls.

548 Q. You see, I want to suggest to you that you put that memo together with no other purpose in mind other than to discredit and embarrass Mr. Ahern?

A. Absolutely not.

549 Q. You see you hadn't phoned him up to correct the record, you used this opportunity for the first time to put a memo together to put information in it which you remember Minister Ahern had no knowledge of before even being cross-examined, then it is put to him in that context, he doesn't recollect the phone calls but what he is categorical about, and the record shows this, is that he didn't say those things. He doesn't believe that he said those things?

A. That is totally incorrect. I can accept that your client was up here and his memory was rather hazy, Mr. Mohan, and I can accept that, but what I will not accept is that his memory was gone on the 15th of September when he appeared on television and said that he had no contact with me whatsoever since the meeting in London. I will not accept that. That is five days after he initiated a series of three phone calls with me. That is one thing I won't accept.

550 Q. So you won't accept that yet you have left him with a false, you have mislead him on two occasions, haven't corrected it and pieced together the jigsaw as you --

MR. COONEY: This is not a question.

CHAIRMAN: Please, he is entitled to put these sequence of events to him. It must not be interrupted. When you are finished interrupting, you can refuse to allow the witness to answer until I make a ruling, you must know, he must know what the question is.

MR. COONEY: Mr. Chairman, this is not a question. This is argument.

CHAIRMAN: It is not.

MR. COONEY: In my respectful submission, it is. That is the first thing. Secondly, it is quite misleading of Mr. Mohan to introduce Mr. Murphy's memo relating to the telephone conversations, ask him what his motivation is and ignore the very first paragraph in that memo where he sets out what the motivation is. "I am making this note of yesterday's calls with Dermot Ahern because after hearing what he has to say and thinking of it overnight, I do not trust him one inch and believe that he and Bertie are on a sweep under the carpet mission".

Now if Mr. Mohan wants to ask this witness for motivation for making this he should surely have referred to the opening paragraph of that.

MR. MOHAN: Mr. Cooney has yet again sought to time his intervention where again I am taking the cross-examination of the witness on an issue that relates to my client.

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MR. COONEY: If he doesn't argue with the witness, I won't interrupt.

551 Q. MR. MOHAN: Mr. Murphy, you take exception, I am going back to where I was; you take exception to the fact that he said that he hadn't had further contact with you and yet you mislead him twice and failed to correct the record; is that correct?

A. I corrected, no, I corrected the record on September the 10th and what I told him on the previous occasions was, I told him in good faith.

552 Q. You told him something which was materially false, wrong on those occasions?

A. I subsequently found out that this was wrong and I corrected it on September the 10th.

553 Q. On the very day that you met him on the second day, you knew even on your own account, that it stank to high heaven?

A. No, I did not.

554 Q. And you did not --.

A. That is totally incorrect.

555 Q. And talk about using the word "priorities changing", and you then have the temerity to say at this point --

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MR. COONEY: That is not a question. That is argument as well.

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CHAIRMAN: Please.

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MR. COONEY: It is abusive argument as well.

556 Q. MR. MOHAN: That you take exception to Minister Ahern, what he said at a later point in time, that is the way you are happy enough to leave it at that?

A. To leave, sorry, you are --.

557 Q. You are still maintaining that you took exception to what Minister Ahern said at a subsequent time, that he had no contact with you?

A. Yes.

558 Q. You see if you recall him being cross-examined he said that he had no recollection of the phone calls when they were initially put to him by Mr. Cooney; do you remember this?

A. He denied them initially and then said that he couldn't remember them. They may have occurred, yes.

559 Q. And then he said if it happened, if the record showed it he would accept that it is so; isn't that so?

A. Yes, that may be the case, yes.

560 Q. And that is what he accepted?

A. Yes.

561 Q. But then it was put to him that he would use certain pejorative words, the type of language that you would be coming out with concerning Mr. Ahern. He said he wouldn't use that type of language that was his recollection in relation to the phrase "put out to grass". The point I am putting to you is that you have put this together in order to embarrass and discredit Mr. Ahern?

A. No. Absolutely no way, that is completely and utterly untrue. That is what he ended up by saying and I stand by that one hundred percent.

562 Q. You see, why would he remember it if you never told him about the money?

A. Sorry?

563 Q. You never told him about the £30,000 and that phone call?

A. I did tell him, of course I did. It is inconceivable that I wouldn't have told him.

564 Q. Why?

A. Please let me finish.

565 Q. Why it is inconceivable?

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CHAIRMAN: Now Mr. Mohan, you must let the witness finish his answer. Yes?

A. It is inconceivable.

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CHAIRMAN: What is inconceivable?

A. It is inconceivable that I wouldn't have told your client in the phone call, because as has already come out, we had contact between Mr. Burke's solicitors and our solicitors in the early part of September. This was a very important day for Mr. Burke, and he was going to make a speech and he may or may not, it was quite possible, that he may make some reference in the information we gave him. It is inconceivable that I wouldn't have said that to him, and I did.

566 Q. MR. MOHAN: Why is it inconceivable, if you hadn't bothered to pick up the phone from the 1st of July to this day when Mr. Ahern rang you?

A. As I say, it was all pieced together in a final piece of the jigsaw, 95 percent of it was put together in the middle of August, four weeks later, things were happening very fast. As I say my priorities had changed and when I was speaking to Mr. Ahern I said that it was in the back of my mind that I had intended ringing him and I availed of the opportunity on that occasion.

567 Q. Well, I suggest to you that doesn't, well it is comment, but I can put it to you; that on the 23rd of July you knew that there was a Burke cheque of £30,000?

A. No, Mr. Mohan, that original fax now proves that it was August.

568 Q. 23rd of August, you didn't ring him then. What difference does it make --

A. I phoned him on the 10th of September.

569 Q. In your --

A. Sorry. He phoned me.

570 Q. In your account of your phone calls, and indeed in the cross-examination that was put to Mr. Minister Ahern that the phone calls had in fact been made to your home?

A. One, the initial call was to my home. I think that Mr. Ahern said that he remembered talking to my wife on an occasion, yes.

571 Q. Well, if I could just take you through what we know now the records to show. We have submitted, as I understand it, both the mobile record and indeed the record from Leinster House. There are two calls going to, if I may use the "1818" number rather than the rest of it, that first call is at 9:40 and it lasts nine minutes. That is what the record shows.

A. That is what the record shows, correct.

572 Q. That is not what you say in your statement?

A. No, exactly; and I am still confused about that because my call to him, in my memory was proceeded afterwards by the longer conversation.

573 Q. Yes, but what we have here is a black and white computer record at 9:40 it lasts nine minutes, it is the first call. That flies in the face of everything you set out in your statement?

A. No, it does not. We had a conversations on three occasions. Sorry, two occasions that morning, and my memory of it is that the longer conversation was after mine. Those records show that it was before.

574 Q. Mr. Murphy, your statement says "Dermot Ahern rang my home in London and asked for me at 9 a.m. approximately. He told my wife it was Dermot. He would not give a second name and asked for me. He was informed I was at work. My wife contacted me at 10 a.m. approximately and informed me of this. I immediately rang him back on his mobile and spoke to him for about two minutes".

A. Yes.

575 Q. Now, two huge and glaring inconsistencies with the record. Not your home, but your office?

A. Correct.

576 Q. Not a short call to your wife, but a nine minute one?

A. Mr. Ahern admitted on the stand here that he had a discussion with my wife at some stage, he remembered talking to her. I cannot explain those records. My memory of it.

577 Q. Sorry, do you doubt their authenticity?

A. I am not doubting anybody's authenticity, it confuses me a little bit, Mr. Mohan.

578 Q. You doubt the authenticity of this note then?

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MR. COONEY: Well again, Mr. Chairman, that is argument.

A. I stick by it.

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MR. COONEY: There is no doubt that there were calls made that day between Mr. Ahern and Mr. Murphy. Mr. Ahern denied them first and then he was pressed and then he said there may have been. He doesn't remember their contents.

Now, it is quite absurd, Mr. Chairman, in my respectful submission, for his counsel to cross-examine Mr. Murphy on the basis that these calls didn't contain the content that Mr. Murphy says they did, when his client says he cannot remember the calls and then says he couldn't remember the contents. I mean such a cross-examination is unreal.

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MR. MOHAN: No, I think Mr. Cooney yet again misunderstands the point I am making. I am not saying what took place during the context of those phone calls because for the obvious reason in the nature of which the material was put to my client, what we have since done, because my client gave an assurance to the Chairman when he was giving evidence that he would make available all his phone records. That he has done. Those phone records show two calls made from Leinster House to Mr. Murphy's office. We have also disclosed our other mobile records, they show no calls going to Mr. Murphy. So the point I am putting to Mr. Murphy is that the actual record itself discloses a materially different position than that as outlined in a statement he has now put forward to the Tribunal.

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MR. COONEY: That is merely a partial statement of what occurred on the record. The records also show that Mr. Murphy rang Mr. Ahern from his home in London and the sworn record of Mr. Ahern's testimony also shows him as having said that he did speak to Mr. Murphy's wife that day.

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MR. MOHAN: Mr. Chairman, I must be allowed to cross-examine.

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MR. COONEY: He can't put --

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CHAIRMAN: We have got to get it factually correct.

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MR. COONEY: He can't put pieces of the evidence and then jump from that into a glaring misstatement or misleading statement.

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MR. MOHAN: I could be, sorry, would Mr. Cooney explain which statement I have made is misleading?

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MR. COONEY: It is misleading to put a partial account of the telephone conversation and the records which exist in relation to those telephone conversation on that day. If he is going to deal with this he must approach the evidence in it's fullness and it's entire truth.

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MS. DILLON: All of the records were put to this witness that are available, Sir, in case there is any suggestion here that this were partially put, both the BT records produced by this witness and Mr. Ahern's record and the letter from Dail Eireann were all put to this witness, and everybody has all of the documents and the sequence is quite clear. It seems to me that Mr. Mohan is perfectly entitled to cross-examination.

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CHAIRMAN: Just a moment please. Please let me understand this; first and foremost Mr. Cooney, let me get the evidence correct. The full evidence. The first thing is this, and I am looking at the same document as you are, and as counsel is, "my wife contacted me at 10 a.m. I immediately rang him back on his mobile number and spoke to him for two minutes". Now, so far as I know his mobile

records are here and they show no telephone calls.

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MR. COONEY: The contrary is the situation, Mr. Chairman.

We have produced a bill from British Telecom that shows that Mr. Murphy rang Mr. Ahern a few minutes after 10 o'clock on that date.

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CHAIRMAN: What I find difficult, and I want an explanation, is that the other records, the Dail Eireann record shows the initiating, if you call it the initiating call at 9:40, a ten minute call; now, what I want to know; that is one call, there is a second call, where I am? 10:24, and the intermediate call is the BT one at 10:13 for how many minutes?

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MR. MOHAN: One minute and 56 seconds.

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CHAIRMAN: 1.56. That first call is a ten minute call. The second call is a 2.8, 2.18. Now, let's just take the sequence of those three calls. It would appear on that now, nothing more, that the initiating call; well, shall I say the initiating call was Mr. Ahern's call to his home at nine o'clock according to, according to Mr. Murphy.

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MR. COONEY: It is not to his home, I think.

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CHAIRMAN: "Dermot rang my home in London and asked for me at 9 a.m."

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MR. COONEY: That is the evidence.

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MR. MOHAN: That is his evidence.

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CHAIRMAN: It is your client's evidence. The second thing is consequent upon that call there is a call, well presumably after 10 o'clock because he only gets notice from his wife, but in the intermediate time at 9:40 Mr. Ahern has talked for nine minutes to the work number. Now, what I want to know is, in the sequence, what was said, what was discussed on the second, on the first call the 9:40 call and what was the need, or not the need, what was the content of the second one at 10:13 and the third one at 10:24.

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MR. MOHAN: I was going to take the witness through those three calls.

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MR. COONEY: I would have thought that the significance of this was that the calls occurred despite Mr. Ahern's initial denials. That is the first point I want to make. Now, the exact sequence of the calls is not, in my respectful submission, a matter of great moment. Though it seems logical that the longer conversation would have been the last conversation.

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In other words, the earlier conversations would have been the ones which were making contact and then when time was available to both parties they had the longer conversation which they discussed, whatever was of interest to them. That seems to me to have been the logical sequence of events, but the records produced by the telephone company on this side of the Irish Channel don't bear that. They may have been mistaken.

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I will leave that for the moment. This exchange from you started on an objection by me on the basis that Mr. Mohan was trying to construct a case on a partial statement of what this had occurred on that date.

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Now, if I can just go on for a moment. What is certain is this, Mr. Chairman, on both, both on the oral evidence and on the documentary evidence, there was a contact between Mr. Ahern and Mr. Murphy's wife on that morning. Mr. Ahern says that. Mr. Murphy says it. There was subsequent contact between Mr. Murphy and Mr. Ahern. Now who precisely initiated each of those contacts and for how long each of those contacts lasted is a matter of some doubt because of the disparity between records and recollection. I don't think that is a matter of great significance. But what is a matter of significance is that Mr. Mohan is by referring only to part of that day's records, is trying to, trying to elevate that into some huge glaring misleading statement by Mr. Murphy, and by doing that, Mr. Chairman, he then hopes to attack Mr. Murphy's account of what was said during the course of a conversation. He cannot do that, Mr. Chairman, because his client is not in a position to give him instructions about that because he cannot remember the conversations or the contents of the conversation that he had with Mr. Murphy. It is as plain and simple as that.

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MR. MOHAN: I have a very brief answer to make. I think with all due respect to Mr. Cooney, his objection is ridiculous. Where, what I want to ask the witness is how come he can put certain material into his own memo or so-called memo when it compares with what is the actual

computer print-out of telephone calls? That is what I want to put to him.

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CHAIRMAN: Well --

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MR. MOHAN: I must be allowed to do that.

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CHAIRMAN: I want to know three things. The time sequence of the apparent contacts between these two gentlemen, the witness and Mr. Ahern, in time sequence according to the mechanics of their machines used, if I may put that, were 9:40, coming from Dublin, initiated in Dublin; 10:13, initiated in London, to a mobile, I believe that to be the mobile number; and a final one, his only final conversation was at 10:24 initiated in Dublin. Now, all I want to know is in that time sequence, what was discussed?

MR. COONEY: Precisely.

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CHAIRMAN: I want the whole of the discussion and not part of it.

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MR. COONEY: Absolutely Mr. Chairman, and there is only one person who can give you that evidence and that is Mr. Murphy because the other party to this conversation, initially said it didn't take place and then when evidence was produced which established conclusively that it must have taken place, he said "well, I accept that but I cannot remember the contents of the conversation". Now, the matter cannot be put any further.

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MR. MOHAN: With respect, I actually agree with Mr. Cooney

in that regard, that my client initially didn't accept the contact but then when it was put to him, if the record so showed that it did take place, but had no immediate recollection of what was spoken, but when certain things were put to him he was quite assertive in saying that is that is not the type of language he would have used and I can refer My Friend --

A. I wonder could I just use the toilet please, just for one minute?

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CHAIRMAN: We will rise. Certainly. As a matter of fact, we will rise for the day and we are clearly not going to finish and --

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MR. MOHAN: I won't be very much longer. About 10 or 15 minutes.

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CHAIRMAN: Mr. Cooney has to deal with --

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MR. MOHAN: If you prefer --

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MR. COONEY: I am going to be much longer than I intended.

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MR. MOHAN: If you wish to say until tomorrow?

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CHAIRMAN: I will say tomorrow. Wait now, we have Garda witnesses, are on Wednesday.

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MS. DILLON: The Gardai are - there are three Gardai witnesses at 10.30 tomorrow morning. Its anticipated that they will probably take about an hour I would have thought,

all told.

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CHAIRMAN: We will resume this at half past 11.

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MR. COONEY: At half 11. Yes, I think we are putting arrangements to have the Leitrim witnesses here tomorrow.

Well now, shall we go continue with those, Mr. Chairman?

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MS. DILLON: It would probably make more sense, in the light of what Mr. Cooney has said, if the Leitrim witnesses were now scheduled for Thursday rather than bringing any of them at all tomorrow. I understand one is only available tomorrow.

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MR. COONEY: Perhaps just one tomorrow who wouldn't be available on Thursday?

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CHAIRMAN: We will slot him in between 11:00 and 11:30, somewhere around there.

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MR. COONEY: May it please you.

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CHAIRMAN: We will sit tomorrow morning at 10:30 for all witnesses and then continue roughly to 11:30 at this moment. Thank you.

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MR. MOHAN: Sorry, is Mr. Murphy resuming at 10:30 tomorrow?

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CHAIRMAN: No, at 11:30. Not before 11:30.

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MR. MOHAN: I am obliged.

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THE HEARING THEN ADJOURNED UNTIL THE 8TH DECEMBER 1999 AT
10.30AM.