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1 THE HEARING RESUMED ON THE 8TH OF DECEMBER, 1999, AS

2 FOLLOWS:.

3 .

4 CHAIRMAN: Good morning everyone.

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6 MR. GALLAGHER: Detective Garda Sean Melia, please.

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8 DETECTIVE GARDA SEAN MELIA, HAVING BEEN PREVIOUSLY SWORN,

9 WAS EXAMINED BY MR. GALLAGHER AS FOLLOWS:

10 .

11 1 Q. Detective Garda Melia, you are already sworn?

12 A. That's correct.

13 2 Q. You are Detective Garda Sean Melia and you gave evidence to

14 the Tribunal on a previous occasion; is that correct?

15 A. That's correct, Your Honor.

16 3 Q. And I think that was on Day 62, Monday the 28th of June.

17 On that occasion you gave evidence that you are now

18 attached to the Garda Bureau of Fraud Investigation in

19 Harcourt Square?

20 A. That's correct Your Honor.

21 4 Q. And that in 1991 you were attached to the "A Unit" in Howth

22 Garda Station?

23 A. That's correct, Your Honor, yeah.

24 5 Q. You also gave evidence that you had been spoken to by

25 Detective Superintendent Callanan who was carrying out some

26 inquiries in relation to the allegations that had been made

27 by Mr. Gogarty and he showed you a printout of an incident

28 which had been recorded by you, as station orderly, on the

29 30th of October of 1991; isn't that right?

30 A. That's correct Your Honor, yeah.

31 6 Q. I think you had entered the information as a Garda incident

32 number 913030392; is that correct?

1 A. That's correct Your Honor, yes.

2 7 Q. And I don't think you had the original with you or a  
3 printout on that occasion; is that correct?

4 A. That's correct Your Honor.

5 .

6 MR. COONEY: What reference is that?

7 8 Q. MR. MOHAN: The number is described as Garda incident - it  
8 is a "Complaint History, Detail. Garda incident  
9 913030392".

10 .

11 MR. COONEY: Thank you.

12 A. That's correct Your Honor, yeah.

13 9 Q. MR. GALLAGHER: Would you please indicate what that  
14 complaint relates to and what details were furnished to you  
15 and what was done?

16 A. Your Honor, I would have received a call at approximately  
17 11:09. I would have entered the incident. The caller  
18 would have stated to me that there is two holes in a front  
19 window. The call type would then have been put down as  
20 "malicious damage" which is a low priority call or  
21 priority two. There would have been a patrol car  
22 dispatched at 11:14, it would have arrived at the scene at  
23 11:17 and cleared the scene at 11:41. The comment they  
24 would have made is "possible air gun used and DDU to  
25 call".

26 10 Q. Could I just take you through that, Detective Garda Melia,  
27 if I could, you entered the times as we see them 11:09:51,  
28 that is I take it the time you entered the information in  
29 the computer?

30 A. That's correct.

31 11 Q. And you dispatched that information at 11:14; is that  
32 correct?

- 1 A. No, Your Honor, that's not correct. The computer would put  
2 the times on it and it would automatically dispatch the  
3 call into Harcourt Square, where it would then be  
4 dispatched to a patrol car. The system at the time was  
5 that the stations had no direct contact with patrol cars.  
6 It would have been dispatched from there.
- 7 12 Q. What do the words "At Scene: 11:17:38" mean?
- 8 A. Once a patrol car would arrive at a crime scene or  
9 whatever, the scene of the call, they would tell the  
10 dispatcher and he would then enter "at scene" and the  
11 computer would give it the time.
- 12 13 Q. All right. And what does the next entry, "closed; RPSTN  
13 30th of the 10th '91. 11:43 by JC1"?
- 14 A. That means when the patrol car crew would finish the call  
15 they would tell the dispatcher and we close the call and at  
16 that time the call was closed at 11:43. The comment RPSTN  
17 is "report to station". DDN to call, the Detective Unit  
18 call is, DDN is "Detective Unit" to call.
- 19 14 Q. Well, if we just stay with that particular entry. Does  
20 that mean at 11:43 the patrol car which is known as JC1 had  
21 left the Gogarty home?
- 22 A. They could still be on, it would, I can't say from that  
23 call what time they had left it at. They would clear  
24 themselves with the dispatcher at 11:43. Maybe they were  
25 still there, maybe they had left. But all this would tell  
26 you is the time they cleared themselves at.
- 27 15 Q. What do you mean "cleared themselves"?
- 28 A. They cleared the call, they have closed the call.
- 29 16 Q. In other words, they had dealt with it or something to that  
30 effect, would that be the normal --.
- 31 A. That's correct, yes.
- 32 17 Q. So generally speaking "closed" would indicate the time that

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1 they had finished their business at the particular scene?

2 A. That's correct.

3 18 Q. Now, the location is given as Shielmartin Road and the name

4 is Mrs. Gogarty. I take it that the report was made by

5 Mrs. Gogarty and she gave the address as "Shielmartin -

6 Renvyle, Shielmartin Road"; is that correct?

7 A. That's correct.

8 19 Q. And the complaint that she made or the report she made was

9 that, and it is down opposite entry 1109 and I quote

10 "reports that there is two holes in her front window"?

11 A. That's correct. That is what the caller would have told me

12 and that is what I would have entered in on the computer.

13 20 Q. All right. Then you indicate that "JA1 is still in court.

14 Then due refreshments"?

15 A. That is a different patrol car. They would obviously have

16 tried to give it to another patrol car first and then --.

17 21 Q. JC1 indicates the personnel who were in the car?

18 A. That's correct, yes.

19 22 Q. That is Garda Duffy and Garda Slattery; is that correct?

20 A. I understand, I am not fully aware, Garda Slattery was

21 signed on, however I understand maybe there possibly was a

22 different garda too, an observer.

23 23 Q. I don't think anything much turns on that. Then the next

24 entry at 11:41 "miscellaneous (21709) possible airgun

25 used. DDU to call" what does that refer to?

26 A. That, after "miscellaneous" there is a number there which

27 would indicate the number of the person who would have put

28 in that comment and that's not my number.

29 24 Q. Is that --.

30 A. So it would indicate that that comment was entered from

31 Harcourt Square, from the command control centre.

32 25 Q. Is that the registered number.

1 A. Of the Garda that entered it.

2 26 Q. Of the Garda that entered it?

3 A. That's correct.

4 27 Q. And does that indicate to you that this was something that

5 was reported back to the Garda in Harcourt Square, Garda

6 21709?

7 A. That's correct, yeah.

8 28 Q. That a "possible airgun was used DDU to call", is that the

9 District Detective Unit?

10 A. That's correct.

11 29 Q. And then there is 11:43 "clear, 21709 JC1 reported", is it

12 reported station "RPSTN"?

13 A. That's correct.

14 30 Q. Report to station, "DDU to call"?

15 A. That's correct, yes.

16 31 Q. Does that indicate that there was a call back to you in

17 Howth Station indicating that that further action should be

18 taken?

19 A. Well, it wasn't a call directly back to me. It was put on

20 the incident. The patrol car crew, I assume, would have

21 put a note down in the book for the DDU to call. That was

22 the normal procedure.

23 32 Q. Is there a separate book, an incident book or something

24 like that, a book requiring entries which require further

25 attention?

26 A. In what sense? For the District Detective Unit.

27 33 Q. Yes.

28 A. Yes, they would have had their own message book.

29 34 Q. I see. So this would be an entry in the message book for

30 the DDU?

31 A. That's correct, yes.

32 35 Q. Right. I think we haven't actually seen that book but I

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1 don't know that anything turns on it. Now the next entry I  
2 want to refer you to is an entry which was furnished to the  
3 Tribunal after you last gave evidence, it was furnished to  
4 the Tribunal in I think some months ago. It is a complaint  
5 history detail and it relates to Garda incident 913040809.

6 Can you tell the Tribunal what that relates to?

7 A. Sorry, could you give me the date and the time of the  
8 incident.

9 36 Q. That is the 31st of the 10th '91, 12:01.

10 A. Yes, I have that incident, yes.

11 37 Q. You have, yes?

12 A. That incident would have been entered by myself again on  
13 the following date at 12:01.

14 38 Q. Right.

15 A. And again it could have come on the receipt of a phone  
16 call. "Owners of the house wants the DDU to call re the  
17 incident, re the airgun yesterday".

18 39 Q. Is there anything there to indicate whether it was a phone  
19 call you received or a caller to the station?

20 A. No, only - there is nothing to indicate.

21 40 Q. Well, it was probably one or the other, wouldn't that be  
22 fair?

23 A. One or the other, that's right, yes.

24 41 Q. What does it indicate then?

25 A. Well, it indicates that the owners of the house would,  
26 wants the District Detective Unit to call.

27 42 Q. The entry at 1201 is "owners of the house want DDU to call  
28 re the incident with the airgun yesterday. Will send  
29 incident number in a supplement"?

30 A. That would be to tie the two incidents together to show the  
31 relevance.

32 43 Q. In other words you would be sending the incident number

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1 that we have already dealt with, that is 913030392; is that

2 correct?

3 A. That's correct, yeah.

4 44 Q. I think that the remainder of the entries on that page down

5 to and including "12:24" relate to a different incident?

6 A. That's correct, yes.

7 45 Q. Which have nothing whatever to do with the Gogarty

8 household or any complaint made by the Gogarty's; is that

9 correct?

10 A. That's correct.

11 46 Q. That is an entirely different matter. "12:48" I understand

12 does relate to the telephone call or the message which was

13 entered on the 31st of the 10th of '91?

14 A. That is correct, yes.

15 47 Q. Now, what does that say at 12:48?

16 A. It dispatches a patrol car, detective car with Detective

17 Garda Grace.

18 48 Q. Dispatches him?

19 A. To the --.

20 49 Q. To Gogarty household?

21 A. To this call.

22 50 Q. That is correct.

23 A. The Gogarty household.

24 51 Q. And what is "13:43" what does that show?

25 A. It shows clear report to station. I presume done.

26 52 Q. Does 13:43 refer to the time?

27 A. That's correct, yeah.

28 53 Q. And when you say presumed done, is that an assumption on

29 your part?

30 A. I wouldn't have entered that, again that would have been

31 entered from Harcourt Square. I can't say why.

32 54 Q. Well, there doesn't appear to have been a report to

1 Harcourt Square following the DDU call to the house; is

2 that correct?

3 A. Well I assume there would have to be a report or they

4 couldn't close the call.

5 55 Q. I see. Now, among the, I don't know whether you can assist

6 us on this, Detective Garda Melia, but it may be sufficient

7 for the purposes of the Tribunal; you are aware that there

8 is a "malicious damage" book kept in Howth Garda Station?

9 A. That's correct Your Honor, yeah.

10 56 Q. I wonder, I know that you may not have made these he

11 entries, but perhaps from your own knowledge as a Garda who

12 had served there, you would be able to identify the book I

13 am about to hand you as the "malicious damage book" for

14 Howth Station for the period of the 21st of June of 1987 to

15 the 14th of June of 1993. We have already had the evidence

16 from one of your colleagues that there is no - (document

17 handed to witness), that there was no entry in the

18 malicious damage book relating to the incident at the

19 Gogarty home on the 30th of the 10th '91.

20 .

21 On the last occasion the Sergeant was unable to, didn't

22 have the book with him. It was subsequently produced to

23 the Tribunal. I am showing it to, I have shown it to my

24 colleagues, and I have drawn their attention to the fact

25 that on the 6th of December of 1991, that is some five

26 weeks after the incident we have been discussing, there are

27 two entries, I think on the bottom right-hand side of the

28 page indicating that there was malicious damage to two

29 other dwellings in Sutton, where the front windows, double

30 glazed window was smashed by a ball bearing?

31 A. I see these entries, yes.

32 57 Q. They show that on the 6th of the 12th, '91, two houses



1 other than Mr. Gogarty's, perhaps you would give the  
2 address of the road or than the name?

3 A. Carrickbrack Road and Strand Road in Sutton, both on the  
4 6th of the 12th, '91.

5 58 Q. Yes, would you read what the entries say for those dates?

6 A. "Mrs. O'Baolain, Carrickbrack Road, Sutton. Front window  
7 double glazed, smashed by a ball bearing and Mrs. --".

8 59 Q. Don't bother giving the name, just it is sufficient to give  
9 --

10 A. The other one is "Strand Road, Sutton. Front double glazed  
11 window smashed by a ball bearing".

12 60 Q. Do you know who made those entries, do you recognise the  
13 signature?

14 A. I can't make out the signatures.

15 61 Q. You can confirm that neither of those relate to an incident  
16 at Mr. Gogarty's house?

17 A. No, they are not on the same road.

18 62 Q. Yes, thank you.

19 .

20 MR. COONEY: Just a few questions.

21 .

22 CHAIRMAN: Certainly.

23 .

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

25 .

26 63 Q. MR. COONEY: Detective Garda Melia, my name is Mr. Cooney

27 and I represent the Murphy interests in this Tribunal. At

28 this time you were stationed in Garda Headquarters; is that

29 correct?

30 A. No, I was stationed in Howth Garda Station.

31 64 Q. Oh, you were stationed in Howth. I see. But these

32 print-outs that have been put into evidence where do they

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1       come from?

2   A. They would come from a printer in Harcourt Square. The  
3       commander control, the commander control centre Harcourt  
4       Square.

5   65 Q. Yes; and you obtained those for the purpose of giving  
6       evidence to the Tribunal; is that correct?

7   A. That's correct.

8   66 Q. And one relates to a call which was received at commander  
9       control centre on the 30th of October; isn't that right,  
10      the first one?

11  A. That's correct.

12  67 Q. Which is 913030392 I think?

13  A. That is correct Your Honor.

14  68 Q. Yes; and that shows that Mrs. Gogarty telephoned the Gardai  
15      to complain of this incident sometime about nine minutes  
16      after 11 o'clock on the 30th of October; isn't that right?

17  A. That's correct Your Honor.

18  69 Q. I see. You are aware are you, perhaps, that Mr. Gogarty  
19      says that this incident happened either around 5 p.m. or 7  
20      p.m. on the previous day?

21  A. I am not fully aware of that now.

22  70 Q. 14 hours earlier, you are not aware of that?

23  A. No, I wasn't aware of that, no.

24  71 Q. Okay; and then the normal routine is that the commander  
25      control headquarters locates a squad car and directs that  
26      squad car to go and investigate the complaint; is that  
27      right?

28  A. Normally a local patrol car.

29  72 Q. Yes, and I think we can see that the patrol car arrived at  
30      17 minutes after 11 o'clock; isn't that right?

31  A. That's correct.

32  73 Q. That would be, as we see, just about eight minutes after

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1 the call had been received from Mrs. Gogarty?

2 A. That's correct.

3 74 Q. And it would appear that the patrol car remained at the

4 scene for at least 25 or 26 minutes; isn't that right?

5 A. That's correct.

6 75 Q. And in fact could have remained, the members of Gardai

7 could have been there longer than that, but they signed off

8 26 minutes after the they first arrived?

9 A. Well, generally when they sign off they leave, but --.

10 76 Q. It is possible?

11 A. It is possible, yes.

12 77 Q. Put it this way, that the squad scar and it's crew were at

13 the scene of this alleged crime for at least 26 minutes;

14 isn't that right?

15 A. That's correct.

16 78 Q. And I think you have established from the numbers, the

17 identity of the Gardai who were there and they were Garda

18 Duffy and I think a Garda Grace; is that correct?

19 A. Garda Grace would have returned afterwards the next day.

20 79 Q. I see, but the first person to call, according to these

21 records, was a Detective Garda Duffy?

22 A. Garda Duffy, that is correct.

23 80 Q. Who has qualifications as a science of crime examiner; is

24 that right?

25 A. I understand he does, yes.

26 81 Q. And it appears then that in the following day there was a

27 second request from Gogarty's for a Detective Unit to call;

28 is that right?

29 A. That's correct.

30 82 Q. And in response to that request Garda Grace seems to have

31 gone there; is that right?

32 A. That's correct.

1 83 Q. I see. Now Mr. Gallagher has asked you about other  
2 incidents which were recorded in a "malicious book" which  
3 is contained in the Garda Station, maintained in the Garda  
4 Station in Howth. That covers a period of six years from  
5 1987 to 1993; isn't that right?

6 A. That's correct.

7 84 Q. And you have examined that and you have found that in or  
8 about the time that this incident occurred to the Gogarty  
9 household there had been two somewhat similar incidents in  
10 the same locality?

11 A. That's correct, yes.

12 85 Q. I see. And you have no details about those incidents other  
13 than the details recorded in the Garda book; isn't that  
14 right?

15 A. Well no, only what is recorded in the malicious damage  
16 book.

17 86 Q. Yes. I heard you say that the details in the Garda book  
18 record these two other windows as having been smashed, does  
19 that mean completely shattered, do you know, or are you  
20 able to say?

21 A. I couldn't say. All I can say is what it says in the book,  
22 which is that there is damage to the windows.

23 87 Q. Yes?

24 A. With a ball bearing.

25 88 Q. Yes. Is there a similar entry for the house belonging to  
26 Mr. and Mrs. Gogarty?

27 .

28 MR. GALLAGHER: I think in fairness to this witness he  
29 hadn't examined this in detail. The Sergeant on the last  
30 occasion in June gave evidence that he had examined the  
31 malicious damage book which is in Garda Melia's possession  
32 at the moment, and had confirmed that there was no such

1 entry.

2 .

3 89 Q. MR. COONEY: Perhaps the witness could answer that? Can

4 you turn up the description in that book about the incident

5 involving the Gogarty house?

6 A. There doesn't appear to be one covering that incident.

7 90 Q. At all? If you just check for the 30th and 31st of

8 October. There doesn't appear to be any entry at all?

9 A. There is only one entry for the 31st of October for

10 malicious damage, it isn't in that area.

11 91 Q. And doesn't refer to the Gogarty's?

12 A. And doesn't refer to the Gogarty's.

13 92 Q. So in fact there is no official record relating to the

14 malicious damage allegedly inflicted on the Gogarty

15 household in or about this time, so far as that book is

16 concerned?

17 A. So far as that book is concerned.

18 93 Q. Yes, I see. I see. Have you been made aware, Detective

19 Garda Melia, of the evidence of a Mr. Paul Kierans who, an

20 insurance assessor, who gave evidence here on Monday last?

21 A. No, I have not Your Honor, no.

22 94 Q. Thanks. Thank you.

23 .

24 CHAIRMAN: Thank you very much. Thank you for coming.

25 A. Thank you.

26 .

27 THE WITNESS THEN WITHDREW.

28 .

29 MR. GALLAGHER: Garda McEaney please?

30

31

32

1 DETECTIVE GARDA CIARAN MCENEANEY HAVING BEEN SWORN WAS  
2 EXAMINED BY MR. GALLAGHER AS FOLLOWS:

3 .

4 95 Q. MR. GALLAGHER: You are Detective Garda Ciaran McEneaney;  
5 is that correct?

6 A. That's correct, Mr. Chairman.

7 96 Q. And I think that on the 20th of June of 1994 at  
8 approximately 2:30 a.m. you went to the home of James  
9 Gogarty at Renvyle, Shielmartin Road, Sutton, and the home  
10 of James Gogarty?

11 A. That is correct Mr. Chairman.

12 97 Q. Were you accompanied by Detective, or by Garda Michael  
13 Sullivan of Howth Station?

14 A. That's correct, Mr. Chairman.

15 98 Q. Can you recall what time you arrived at Mr. Gogarty's home?

16 A. At approximately 2:30 a.m.

17 99 Q. And who did you meet there?

18 A. On arrival there we were met by Mrs. Anne Gogarty. She  
19 answered the front door.

2 100 Q. What did she tell you?

21 A. She informed us that her husband, James Gogarty, who had  
22 contacted the Gardai in relation to a threatening phone  
23 call, and that he was presently on the phone upstairs in  
24 conversation with the person who was threatening him.

2 101 Q. How did Mrs. Gogarty appear to you?

26 A. She felt, she appeared to be startled and upset.

2 102 Q. Can you recall how she was dressed? Was she dressed in her  
28 night clothes?

29 A. That I can't recall.

3 103 Q. All right. Now, what happened after that?

31 A. Mrs. Gogarty went upstairs to fetch her husband and I  
32 lifted the telephone receiver on a telephone in the hallway

1 area.

104 Q. What did you hear?

3 A. I could hear two male voices in excited tones, verbally  
4 abusing each other. I did not hear any threats uttered,  
5 but the conversation over-heard by me lasted approximately  
6 20 to 30 seconds. It was difficult, I could not make out  
7 the context of the conversation, but the phone went dead  
8 and I replaced the phone receiver after a short time. Both  
9 persons were abusing each other by using bad language.

1 105 Q. Would you describe the exchanges as "heated"?

11 A. Not necessarily. I do recall the "F word" being used and  
12 the "B word" if I can call it as such, being used and  
13 words, sentences, "did you do this" and some mention of  
14 P60's.

1 106 Q. Sorry?

16 A. Some mention of P60's.

1 107 Q. I see.

18 A. But as I say the conversation over-heard by me, I could not  
19 understand the context of this conversation, obviously.

2 108 Q. I see. And do you know how the phone came to be replaced  
21 on the receiver or who hung up on whom, or do you know?

22 A. I don't know. Just the phone went dead and I replaced the  
23 receiver.

2 109 Q. Can you say what happened after that?

25 A. Mr. Gogarty appeared. He came downstairs to me and he was  
26 dressed in his pajamas and he immediately complained of  
27 having heart trouble and he was clutching his chest. He  
28 appeared very agitated and he informed me then that he was  
29 in dispute with his former employers, JMSE, Shanowen Road,  
30 Santry, which was owned by Joseph Murphy Snr. and he  
31 informed me that he had just received a telephone call from  
32 Joseph Murphy Jnr. threatening him that he would "break

1 every bone in his body" and that by the time that he was  
2 finished with him "he would have no roof over his head", so  
3 I informed, he informed me as well that Joseph Murphy Jnr.,  
4 he knew him very well and he could he recognise his voice  
5 over the phone. He also said that he was involved in a  
6 High Court action with Joseph Murphy. So, I asked Mr.  
7 Gogarty at that time did he wish to make a formal complaint  
8 and that if he was to do this it would be necessary to take  
9 a written statement from him.

10 .

11 Mr. Gogarty informed me that he wished to consult a  
12 solicitor first. So I undertook to call to him later in  
13 the week when it would be more suitable and I assured Mr.  
14 Gogarty that the Gardai in Howth would pay attention to his  
15 home.

1 110 Q. I think you reported then to your superior, Detective  
17 Sergeant Sherry in due course?

18 A. Yes. I would have been resting, or off, on that Monday and  
19 Tuesday and to return on Wednesday, so I left a note for  
20 Detective Sergeant Brian Sherry at Howth Station informing  
21 him of the situation in relation to Mr. Gogarty.

2 111 Q. You say that Mr. Gogarty appeared to be, I think you used  
23 the word "very agitated" I am not quite certain, if they  
24 are the words you used?

25 A. "Agitated" yes.

2 112 Q. Can you assist the Tribunal any more in describing how he  
27 appeared to you and what he said to you?

28 A. Well, he appeared to me, walking down the stairs he was  
29 clutching his chest and he was dressed in his pajamas and  
30 he appeared agitated and very excitable. And it was  
31 difficult on the night to ascertain all of the facts. He  
32 was very agitated. I made him sit down and I asked Mrs.



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1 Gogarty to make him a cup of tea with plenty of sugar to  
2 relax him. He did appear very agitated and angry and  
3 annoyed.

113 Q. Did you remain there until he had the cup of tea?

5 A. Yes.

114 Q. Did he settle down during that period?

7 A. He did, yes.

115 Q. I think that you were subsequently directed by Detective

9 Garda Sherry to take a written complaint from Mr. Gogarty?

10 A. That's correct, Mr. Chairman. On returning to work on the

11 22nd of June, the Wednesday, I had Detective Sergeant

12 Sherry appraise me of his visit to Mr. Gogarty and on

13 receipt of two typed statements from Mr. Gogarty and Mrs.

14 Gogarty I was directed by Detective Sergeant Sherry to

15 investigate the matter and take a written complaint from

16 Mr. Gogarty.

1 116 Q. Did you, following the taking of that complaint make, well

18 perhaps you would tell us what Mr. Gogarty said in that

19 complaint?

20 A. I took a written statement from Mr. Gogarty towards the end

21 of June 1994. You wish to me to read into the Tribunal the

22 statement? I can do that if you wish?

23 .

24 MR. CUSH: I think it is already in.

25 .

2 117 Q. MR. GALLAGHER: Yes it is. Well, following the taking of

27 that statement did you make inquiries at the JMSE

28 Headquarters in Shanowen Road?

29 A. Yes Mr. Chairman, I did. I made inquiries at JMSE

30 Shannowen Road, Santry, as to the whereabouts of Mr. Joseph

31 Murphy Jnr. I spoke to a female secretary there who

32 informed me that Joseph Murphy Jnr. resided permanently in

1 England at an address at 44A --.

118 Q. Yes, Bedford?

3 A. -- Bedford Court, London W 31.

119 Q. Yes?

5 A. I spoke to this female secretary in person and she also

6 gave me a telephone number "031".

120 Q. Don't bother with the telephone number. You got a

8 telephone number and you made contact with Mr. Murphy?

9 A. Yes.

1 121 Q. What was said by you and what was said by Mr. Murphy?

11 A. I advised, I made contact with Mr. Joseph Murphy Jnr. and I

12 advised him as to the reasons for calling him.

1 122 Q. What did you say to him?

14 A. I outlined --.

1 123 Q. About the reasons?

16 A. I outlined Mr. Gogarty's complaint and the allegations that

17 were made against him in relation to the threatening phone

18 calls and the threat, the alleged threat that Mr. Gogarty

19 outlined to me. Mr. Murphy Jnr. acknowledged to me that he

20 in fact had been in contact, by telephone, with Mr. Gogarty

21 on the night in question. And telephoned him at his home.

2 124 Q. Did he tell you whether there had been one or two phone

23 calls?

24 A. No.

2 125 Q. Did ask you him?

26 A. I don't recall.

2 126 Q. All right.

28 A. He denied making any threats of intimidation to Mr. Gogarty

29 and Mr. Murphy Jnr. I recall, informed me that Mr. Gogarty

30 had his firm tied up in a number of High Court legal cases

31 and he had also reported them to the Revenue

32 Commissioners. Mr. Murphy told me that he wished to

1 apologise if he caused Mr. Gogarty any upset and he gave me  
2 an undertaking that he would communicate with Mr. Gogarty  
3 only through their respective solicitors.

127 Q. I think you subsequently informed Detective Sergeant Sherry  
5 of the result of your investigations and your conversation?

6 A. Yes, I discussed the case with D. Garda Sherry.

7 .

8 MR. GALLAGHER: Thank you.

9 .

10 THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. CUSH:

11 .

1 128 Q. MR. CUSH: Detective Garda, I appear on behalf of the Murphy

13 interests at this Tribunal and I just have a few questions

14 for you, if I may. When you attended at the Gogarty's

15 house on the evening on which the phone calls were made, I

16 think you said you heard about 20 to 30 seconds of the

17 call?

18 A. That's correct Mr. Chairman.

1 129 Q. And it was difficult for you to catch the context of it; is

20 that right?

21 A. That's correct, Mr. Chairman.

2 130 Q. And I suppose it was difficult for you then to establish

23 immediately who was saying what, would that be so?

24 A. Yes.

2 131 Q. And then clearly Mr. Gogarty, after that was finished, he

26 was upset by that?

27 A. Um hum.

2 132 Q. And you asked him did he wish to make a statement?

29 A. Yes.

3 133 Q. Or a formal complaint?

31 A. A formal complaint, yes.

3 134 Q. And he settled then somewhat, I think Mrs. Gogarty made him

1 a cup of tea and before you left he settled down?

2 A. That's correct, yes.

135 Q. But he still wasn't sure whether he wanted to make a formal

4 statement, he wanted to speak to his solicitor first?

5 A. That's correct. He wanted to consult his solicitor about

6 making a formal complaint in writing on official Garda

7 paper.

136 Q. He did then make the formal complaint; isn't that so?

9 A. He made his own, he made his own statement, typed on his

10 own paper.

1 137 Q. Yes.

12 A. And Mrs. Anne Gogarty made her own statement typed on her

13 own paper and submitted it to Detective Sergeant Sherry on

14 a follow-up visit afterwards, but I took a formal statement

15 from him shortly after that on official Garda paper.

1 138 Q. Okay. And you didn't hear any threats in the course of

17 the, of what you heard in the phone call; isn't that so?

18 A. No, I did not hear any threats, Mr. Chairman.

1 139 Q. And when you then went and sought to make contact with Mr.

20 Murphy Jnr. you succeeded in making contact with him; isn't

21 that right?

22 A. Yes, we made contact.

2 140 Q. And he immediately acknowledged the making of the call;

24 isn't that right?

25 A. I can say that, yes, Mr. Chairman.

2 141 Q. And he denied that he had been threatening or intimidatory;

27 isn't that so?

28 A. That's correct.

2 142 Q. And he offered an apology?

30 A. That's correct.

3 143 Q. To Mr. Gogarty, if he caused him upset?

32 A. That's correct.

144 Q. And he undertook not to do it again and if any further, and  
2 that any further contact with be between the respective  
3 solicitors?

4 A. That's correct and right, Mr. Chairman.

145 Q. And he explained something of the background to his  
6 agitation in terms of the ligation and a complaint to the  
7 Revenue Commissioners?

8 A. That's correct, yes.

146 Q. Did you form a view, Detective Garda, that the undertaking  
10 that Mr. Murphy Jnr. had offered was an undertaking under  
11 which some reliance could be placed?

12 A. I believed so at the time, yes.

1 147 Q. Yes; because I think you subsequently discussed this matter  
14 then with Detective Garda Sherry; isn't that so?

15 A. Yes, we discussed the particular case, yes.

1 148 Q. And he formed the view for a variety of reasons that the  
17 matter wasn't to be brought further; isn't that so?

18 A. That's correct.

1 149 Q. And you concurred with that view?

20 A. That's correct, yes, Mr. Chairman.

2 150 Q. And one of the reasons, I take it, that you concurred with  
22 that view, is that you felt that Mr. Murphy's undertaking  
23 was something that could be relied upon?

24 A. That would have been one of the reasons, yes, Mr. Chairman.

2 151 Q. You had some further contact then, I think, with Mr.  
26 Gogarty; isn't that so, some years later?

27 A. Yes, in November of 1996.

2 152 Q. Yes; and this was at a time when you were being asked to  
29 investigate allegations of bribery and corruption being  
30 made by Mr. Gogarty against certain politicians; isn't that  
31 so?

32 A. That's correct, yes, Mr. Chairman.

153 Q. I don't want you to name anybody please, Detective Garda,  
2 but were you aware of who the politicians were when you  
3 were asked to investigate that?

4 A. No, Mr. Chairman.

154 Q. You weren't. And you went in any event to Mr. Gogarty's  
6 home to, to presumably take a statement from him; is that  
7 correct?

8 A. That's correct. I was directed to call to Mr. Gogarty to  
9 investigate the situation and to take a statement from Mr.  
10 Gogarty.

1 155 Q. Yes; and I think he declined to furnish you with a  
12 statement; isn't that so?

13 A. That's correct.

1 156 Q. And he offered as an explanation for that that he wouldn't  
15 speak to anyone below a certain rank; isn't that so?

16 A. He requested a Garda not below a Superintendent to  
17 interview him and discuss the case because he stated that  
18 had there was "corruption somewhere along the line".

1 157 Q. This was the reason that he offered for not speaking to a  
20 Garda of your status, it had to be somebody -- there was  
21 corruption along the lines?

22 A. That's correct.

2 158 Q. Was he more specific about that --

24 .

25 MR. GALLAGHER: Sir, I am just concerned that names may be  
26 mentioned directly or deliberately or inadvertently at this  
27 stage. You will recall that you made a ruling on the 16th  
28 of April last in relation to Garda witnesses and other  
29 matters of that nature, which you held were not relevant to  
30 the matters that you were dealing with and should not be  
31 pursued in the course of cross-examination of Mr. Gogarty.  
32 And I just would suggest that if it is intended to name any

1 person, that you might consider it appropriate to give a  
2 direction that that should not be done.

3 .

4 MR. CUSH: I am quite happy, Mr. Chairman, if needs be,  
5 that the particular Detective Sergeant, against whom this  
6 allegation by Mr. Gogarty was made, be not named. Though  
7 it is the fact that he has been previously named in this  
8 Tribunal on more than one occasion. I have about five  
9 minutes more or perhaps less.

10 .

11 CHAIRMAN: I don't want, in any way to confine you, I  
12 don't want any person accidentally injured, reputations  
13 accidentally injured.

14 .

15 MR. CUSH: Yes.

16 .

17 CHAIRMAN: Now my recollection and I am standing on my  
18 recollection, the basis of the ruling was there is an  
19 element of, sorry I better say no more until I get the  
20 ruling.

21 .

22 MR. GALLAGHER: There was a - sorry Sir, if I can just  
23 remind you that you held that in the course of his evidence  
24 Mr. Gogarty had withdrawn any allegations against the --

25 .

26 CHAIRMAN: The member.

27 .

28 MR. GALLAGHER: Against the Garda Siochana.

29 .

30 CHAIRMAN: Let's call him the "member in question".

31 .

32 MR. GALLAGHER: You said, you quoted passages from Mr.

1 Gogarty's testimony. You said that "Mr. Gogarty has  
2 clearly and unequivocally retracted any allegations of  
3 wrongdoing by the Garda Siochana. I am satisfied from the  
4 events that happened there are no grounds that I could  
5 permit cross-examination of Mr. Gogarty upon the premises  
6 advanced by Miss Butler which have been advanced in  
7 correspondence by the Gardai. Such cross-examination would  
8 not in any material way advance or help me in the task  
9 required by me by the Terms of Reference. It would be a  
10 wholly unfruitful exercise and a misuse of the, in my  
11 opinion, of the Tribunal's time. I accordingly decline to  
12 permit the cross-examination".

13 .

14 CHAIRMAN: That ruling covers the member of the Garda  
15 force.

16 .

17 MR. CUSH: Yes.

18 .

19 CHAIRMAN: I am sure neither you nor I would wish any  
20 other citizen in anyway to be named when he hadn't an  
21 opportunity to respond. That is all I am concerned with,  
22 Mr. Cush. Perhaps you can examine the witness in the  
23 context, on that basis.

24 .

25 MR. CUSH: Yes if I could just be clear Mr. Chairman so, I  
26 am not misunderstood. I have no desire to damage any Garda  
27 and my desire is to bring out the fact that an allegation  
28 was made, of a very serious nature, that we know was,  
29 amongst other things, withdrawn. That is what I want to  
30 elicit. I am not concerned with the identity of the person  
31 against whom it was made.

32 .



1 CHAIRMAN: I can --

2 .

3 MR. CUSH: Although it is the case that it has been aired  
4 in this Tribunal before, Mr. Chairman.

5 .

6 CHAIRMAN: Just a moment, I am reading a resolution. This  
7 matter seems to have been already covered by a ruling of  
8 the 16th of April in which I expressed myself fairly  
9 strongly in relation to any implication or criticism of the  
10 member in question. It is in fairly strong language.

11 .

12 MR. CUSH: Yes.

13 .

14 CHAIRMAN: Now I don't want to go back into that and I  
15 don't think you do either. But I think you are perfectly  
16 entitled to say that a complaint was made.

17 .

18 MR. CUSH: Yes.

19 .

20 CHAIRMAN: And was retracted. I mean both sides of the  
21 story must be -- you are perfectly entitled - what I am  
22 very anxious for, I don't want anybody's reputation, once  
23 again, tarnished.

24 .

25 MR. CUSH: May it please you.

26 .

27 CHAIRMAN: Because it should not be and in my opinion that  
28 aspect of it is not germane to this inquiry.

29 .

30 MR. CUSH: I am not concerned with that.

31 .

32 CHAIRMAN: That is all I want to do, Mr. Cush. I have no

1 wish in anyway to restrain you otherwise. You are  
2 perfectly entitled to conduct your inquiry as you wish,  
3 within those parameters.

4 .

5 MR. CUSH: I understand. Detective Garda --

6 .

7 CHAIRMAN: If you want the ruling I have the printed  
8 ruling here in front of me, if you want it.

9 .

1 159 Q. MR. CUSH: Thank you Mr. Chairman. I recall the ruling, I

11 won't transgress it. Detective Garda, an allegation of

12 corruption was made by Mr. Gogarty against a senior garda,

13 not yourself; isn't that so?

14 A. That's correct, Mr. Chairman.

1 160 Q. And it was said that he had been bribed?

16 A. That's correct.

1 161 Q. And it was said on another occasion by Mr. Gogarty that he

18 must have been bought?

19 A. That's correct.

2 162 Q. And it was also said of him that somebody had got to him;

21 isn't that right?

22 A. That's correct.

2 163 Q. So this allegation was one that was voiced in a couple of

24 different ways, it wasn't a casual aside?

25 A. Um hum.

2 164 Q. Am I right about that?

27 A. That's correct, yes.

2 165 Q. Now, that is an extremely serious allegation, is it not?

29 A. Yes it is, Mr. Chairman.

3 166 Q. It is an allegation, if found to be true, I would presume

31 would warrant dismissal from the force?

32 A. That would be correct, Mr. Chairman.

167 Q. And the very making of such an allegation is damaging in  
2 respect to the person against whom it is made; isn't that  
3 so?

4 A. That's correct.

168 Q. And it must, of necessity, be investigated; isn't that  
6 right?

7 A. That's correct.

169 Q. And there was this case an investigation; isn't that so?  
9 A. That is correct.

1 170 Q. And the complaint was found to be baseless; isn't that  
11 right?

12 A. That is correct.

1 171 Q. Now again, without naming anybody, isn't it the case that  
14 on this occasion Mr. Gogarty made an allegation against a  
15 member of the legal profession?

16 A. That is correct.

1 172 Q. And isn't it also the case that in respect, without naming  
18 anybody please Detective Garda, that he made an allegation  
19 in respect of a politician?

20 A. That's correct. That is correct Mr. Chairman.

2 173 Q. At the end of this meeting, Detective Garda, isn't it the  
22 case that Mr. Gogarty was in a particularly agitated state?

23 A. That is correct.

2 174 Q. And how did that manifest itself to you?

25 A. At the end of the interview he kept shouting and waving his  
26 clenched fist saying "I will prove all this as long as  
27 there is blood in my veins". And "I will begin with that  
28 particular member of the Garda Siochana we discussed", and  
29 Mrs. Gogarty entered the room at that point.

3 175 Q. I think, in fairness to you, we will just leave Mrs.  
31 Gogarty out of it.

32 A. Yes, okay. But she shouted, well she did shout at me, that

1 I made a remark "that my husband is not a cranky old man"  
2 and she kept shouting this.

176 Q. Okay.

4 A. And that he, he stated that he would prove that that  
5 particular member of the Garda Siochana said this, that he  
6 would prove this.

177 Q. Um?

8 A. I asked him to allow me to clear this matter up by  
9 arranging an appointment with the particular member of the  
10 Garda Siochana and himself and he refused to accept this.  
11 At the end of this interview he told me that he had had a  
12 heart operation and was still recovering, and I expressed  
13 my best wishes to both of them and that I would report his  
14 request to my authorities.

1 178 Q. Um?

16 A. And I immediately, having left the house, I made a written  
17 note of this interview in my official notebook and reported  
18 this to my immediate supervisors.

1 179 Q. Detective Garda, if you just go back for a moment to the  
20 first part of that answer, where you said that Mr. Gogarty  
21 said something to the effect that "I will prove this as  
22 long as there is blood in my veins"?

23 A. That's correct Mr. Chairman.

2 180 Q. And the "this" he was referring to was the very allegation  
25 that was subsequently investigated and established to be  
26 groundless?

27 A. That is correct Mr. Chairman.

2 181 Q. But Mr. Gogarty was saying he would pursue it for as long  
29 as he had blood in his veins?

30 A. That's correct.

3 182 Q. Thank you.

32 .

1 MR. O'MOORE: I have some questions for Detective Garda  
2 McEneaney, I won't be long.

3 .

4 CHAIRMAN: Certainly; and again the same strictures apply  
5 to you, as to anybody else.

6 .

7 THE WITNESS WAS CROSS EXAMINED AS FOLLOWS BY MR. O'MOORE:

8 .

183 Q. MR. MOORE: Of course Sir. Detective Garda, I represent

10 Mr. Gogarty in the Tribunal. I want to ask you about two  
11 topics. One is the trip that you made to Mr. Gogarty's  
12 house where you lifted the receiver and heard the  
13 conversation between Mr. Murphy Jnr. and Mr. Gogarty and  
14 the second is the subsequent visit that you had on the 22nd  
15 of November of 1996 which you have just been discussing  
16 with Mr. Cush.

17 .

18 Could I ask you about the first of those, very briefly, I  
19 think you know that from both the evidence of Mr. Gogarty  
20 and Mr. Murphy Jnr. the two people that participated in the  
21 telephone conversations that there were two different  
22 conversations, two telephone calls?

23 A. That's correct Mr. Chairman.

2 184 Q. And we don't know quite how long they lasted but obviously  
25 from the account of both parties they lasted long enough  
26 for a certain amount of interaction to take place between  
27 the two; isn't that so?

28 A. That's so, yes.

2 185 Q. And it is clear from the statement that Mr. Gogarty and  
30 Mrs. Gogarty gave to you, that a great deal was discussed,  
31 according to their account, between the two men?

32 A. That's correct, Mr. Chairman.

186 Q. So you heard only 20 or 30 seconds of that account, I don't

2 think that you are even pretending that that would be a

3 representative proportion of the conversation?

4 A. Absolutely not Mr. Chairman.

187 Q. It is 20 or 30 seconds taken at random?

6 A. Yes, um hum.

188 Q. What did you did hear during the course of those 20 or 30

8 seconds; was the "F word" being used?

9 A. That's correct Mr. Chairman.

1 189 Q. By both parties?

11 A. By both parties, yes.

1 190 Q. Yes. So when Mr. Murphy Jnr. gave sworn evidence on the

13 2nd of December of this year at transcript 111, page 38 and

14 he says "I never used the "F word" on him". He is

15 absolutely incorrect in that, isn't that so?

16 A. That is incorrect, both voices used the "F word".

1 191 Q. Could I ask you about the meeting of the 22nd of November

18 1996. During the course of that meeting Mr. Cush has tried

19 to suggest that many allegations were made by Mr. Gogarty

20 against various individuals, and of course has tried to - I

21 raised the implication that they were all unfounded - the

22 allegations involved the politician who I won't obviously

23 name, was not an allegation of bribery; isn't that so?

24 A. That's correct Mr. Chairman.

2 192 Q. There was no question of bribery or corruption at all

26 alleged against that individual?

27 A. No, Mr. Chairman.

2 193 Q. The allegations against the solicitor that Mr. Cush has

29 hinted at was not an allegation of bribery; isn't that

30 right?

31 A. That's correct.

3 194 Q. It was simply, I think the words used in your statement are

1 that he "fell short in trust"?

2 A. "Falls short in trust" yes.

195 Q. An unpleasant thing to have said about somebody. It is not

4 exactly an earth shaking allegation?

5 A. Mr. Gogarty indicated that he didn't trust the particular

6 solicitor in question.

196 Q. Yes. Just as there are people in this room would do not

8 trust each other, but it is not the end of the world; isn't

9 that so?

10 A. That's correct Mr. Chairman.

1 197 Q. And then the third allegation which was a serious

12 allegation was against the unnamed Garda?

13 A. That's correct.

1 198 Q. Now, are you familiar with the evidence given to this

15 Tribunal by Detective Superintendent McElligott?

16 A. Yes.

1 199 Q. Yes; and that evidence for the record was given on Day 58.

18 That is Tuesday the 18th of May of 1999 and I asked him a

19 few questions about the allegations against the Garda and

20 he said the following, first of all though at question 396

21 I asked him: "Am I right in understanding that they never

22 made a formal statement about the Guard involved, or

23 accused him in a formal fashion of any wrongdoing

24 whatsoever" to which the Detective Superintendent said "no,

25 not in a formal statement, no". That is correct, isn't it

26 Detective Garda?

27 A. That is correct, yes there was never, in fact, a formal

28 complaint about that individual at all. No.

2 200 Q. I then continued asking the Detective Superintendent over

30 the page on page 114 at question 400 and a few questions

31 after that "Question: Now, I suggest to you Superintendent

32 that with regard to any suggestion made by Mr. Gogarty

1 against the named garda, that it was borne from significant  
2 frustration and concern for his family's welfare, would you  
3 find that agreeable? Answer: Yes, I think he - yes. The  
4 named garda I suppose was the front line of the situation  
5 when I met him and he was the first person to be attacked.

6 Question: Of course.

7 Answer: As we opened it up it went backwards to other  
8 people.

9 Question: But the truth is, isn't it Superintendent, that  
10 long before this Tribunal began its sittings, the question  
11 of any allegation against the garda was dead and buried;  
12 isn't that right?

13 Answer: As far as I was concerned it didn't have any  
14 substance to it and I was holding out until he made a  
15 statement to see what his final position was.

16 Question: But he didn't press the issue at all?

17 Answer: No". Isn't that quite so?

18 A. That is, that is so Mr. Chairman.

1 201 Q. A comment was made to you which clearly could have been  
20 very damaging to the garda involved, but it was not pressed  
21 by Mr. Gogarty; isn't that right?

22 A. That's correct.

2 202 Q. And I think the garda involved has not suffered adversely  
24 as a result of any investigation into his alleged  
25 misconduct; isn't that right?

26 A. Of any investigation, that is correct, yes.

2 203 Q. Thank you very much.

28 .

29 CHAIRMAN: Anybody else want to ask any questions? I just  
30 want to -- I just want to say this, that on the 16th of  
31 April that I said the following at the very end of the  
32 ruling, or very near the end: "I note the decision of the



00033

1 officer in question. There is no factual basis whatsoever  
2 for any suggestion that he acted otherwise than in the  
3 proper, in proper and due performance of his duty in this  
4 regard. I fully concur with the findings of the Garda  
5 investigation in this matter".

6 .  
7 I want to make that clear, that I have not altered my view  
8 and I said it very clearly, because it effected the career  
9 and could effect the career of an officer. And I repeat  
10 that decision.

11 .

12 THE WITNESS WAS RE EXAMINED AS FOLLOWS BY MR. GALLAGHER:

13 .

1 204 Q. MR. GALLAGHER: Sir, I wonder may I ask one question just  
15 for the purpose of clarifying something that was said, just  
16 for clarification purposes only? Detective Garda  
17 McEneaney, you in fact made two statements, or reports,  
18 arising from the incidents we have been hearing about. One  
19 is a four-page document, a statement of Detective Garda  
20 Ciaran McEneaney, Raheny, statement with a declaration  
21 following it and you setting out your Statement of Evidence  
22 in effect?

23 A. Yes.

2 205 Q. Now you were asked by Mr. Cush about certain allegations.

25 If I can refer you to what I think is the third page of  
26 that document and I don't want you to read it out, but just  
27 you see about six lines from the bottom there is a  
28 reference to a member of An Garda Siochana, Mr. Cush asked  
29 you whether a matter had been investigated and was found to  
30 be groundless, the allegation was found to be groundless.

31 Do you remember that?

32 A. Yes.

206 Q. Can you indicate in a very general way without naming  
2 anybody or, what matter you were referring to in that?  
3 What investigation you were referring to? Is it related to  
4 any of the matters at the bottom of the page, some of which  
5 have been ruled out already by the Sole Member?

6 A. That is page three of my statement.

207 Q. Yes? Is it the matter referred to?

8 A. Six lines up.

208 Q. Five pages, five lines from the bottom?

10 A. "He kept shouting and waving his clenched fist and saying I  
11 will prove all this".

1 209 Q. Sorry, yes?

13 A. Is that it?

1 210 Q. There may be a line missing off mine. Perhaps, sorry.

15 .

16 MR. CUSH: I may be able to clarify this Mr. Chairman, by  
17 saying that what I was putting to the witness and I thought  
18 the witness understood when he answered me, that was the  
19 allegation made against the garda --

20 .

21 CHAIRMAN: Was that he had been bought --

22 .

23 MR. CUSH: Yes, the allegation that was investigated and  
24 found to be groundless and I understood the Detective Garda  
25 to agree with me.

26 .

27 CHAIRMAN: The premises followed the manner in which he  
28 dealt with it and he very clearly dealt with it in a proper  
29 manner. There is nothing wrong with what the Guard did,  
30 whatsoever.

31 .

32 MR. CUSH: Yes. I concur absolutely Mr. Chairman.

1 .

2 MR. GALLAGHER: That is quite all right. I had thought it  
3 may have been a different incident that was being referred  
4 to.

5 .

6 CHAIRMAN: I want to make that clear.

7 .

8 MR. GALLAGHER: Thank you very much.

9 .

10 CHAIRMAN: Does that conclude this portion of the  
11 morning's proceedings?

12 .

13 MR. GALLAGHER: Yes. Mr. Murphy?

14 .

15 THE WITNESS THEN WITHDREW.

16 .

17 MS. DILLON: I think Mr. Murphy Jnr. is to return to the  
18 witness-box. I think you told Mr. Mohan 11:30, yes?

19 .

20 CHAIRMAN: Oh, Mr. Mohan is here.

21 .

22 MS. DILLON: He is here.

23 .

24 CHAIRMAN: Is Mr. Murphy here?

25 .

26 MS. DILLON: I think so.

27 .

28 MR. COONEY: Before Mr. Murphy comes back to the  
29 witness-box, there is a matter, perhaps I should refer to,  
30 it is a very tragic accident which occurred yesterday on a  
31 site in Edenderry in which JMSE were the structural and  
32 steel erectors. Unfortunately one of the workmen, a Mr.

1 Vincent Cummins fell and suffered an accident, it is  
2 obviously a very distressing matter for Mr. Cummins' family  
3 and also Mr. Murphy was distressed by this incident to one  
4 of his employees.

5 .

6 And he has considered this and obviously, Mr. Chairman,  
7 despite this I think he should continue with his evidence,  
8 obviously it wouldn't be a reason for postponing his  
9 evidence. But nonetheless he has asked me to acknowledge  
10 publicly this unfortunate incident has happened and how  
11 greatly distressed he is by it, Mr. Chairman.

12 .

13 CHAIRMAN: Thank you. Mr. Murphy?

14 .

15 MR. GALLAGHER: Thank you Garda McEneaney.

16 .

17 MS. DILLON: Simply for the record before Mr. Murphy comes  
18 back to the witness-box, the Gardai furnished us with  
19 certain original documentation which I am going to return  
20 now to the solicitor for the Gardai because, Mr. Wilson,  
21 because we don't require them any further. Simply to have  
22 that on the record.

23 .

24 CHAIRMAN: Certainly.

25 .

26 JOSEPH MURPHY JNR. RETURNS TO THE WITNESS-BOX AND CONTINUES  
27 TO BE CROSS-EXAMINED BY MR. MOHAN AS FOLLOWS:

28 .

2 211 Q. MR. MOHAN: Mr. Chairman, may I continue?

30 .

31 CHAIRMAN: Yes please, Mr. Mohan.

3 212 Q. MR. MOHAN: Mr. Murphy, we left off yesterday when we were

1 just touching upon the phone calls. I know obviously  
2 having read your attendance of your record of those phone  
3 calls and indeed I have listened to your testimony in that  
4 regard. I just want to go through, with you as I  
5 understand it, your testimony in relation to the sequence  
6 of the calls. You say that Dermot Ahern rang your home  
7 number at approximately 9 o'clock on that day; is that  
8 correct?

9 A. Approximately, yes.

1 213 Q. He didn't, you say, speak to you, he spoke to your wife and  
11 contact was made with you by your wife, which resulted in  
12 the second phone call, which is the phone call you say was  
13 made by you from your mobile to Dermot Ahern; is that  
14 correct?

15 A. No, from my land line to Dermot Ahern's mobile.

1 214 Q. Sorry, from your land line to Dermot Ahern's mobile. That  
17 is the second call?

18 A. Yes.

1 215 Q. And you say the third call then was a call which came from  
20 Dermot Ahern to you because he was quite busy during the  
21 second phone call; is that correct?

22 A. Correct. He said he was a little bit tied up, something  
23 like that.

2 216 Q. Yes. Now, so that the sequence, just so I may, for the  
25 record is that you say Dermot Ahern rang your home at  
26 approximately nine o'clock that morning?

27 A. In or around that time, yes.

2 217 Q. And the second call came from you to Dermot Ahern and the  
29 third call from Dermot Ahern to you?

30 A. Correct.

3 218 Q. You have, your counsel Mr. Cooney cross-examined about Mr.  
32 Ahern at some length during that cross-examination about

1 his telephone records you recall that?

2 A. I do.

219 Q. You now know that those telephone records have been made

4 available?

5 A. I do.

220 Q. And you have had, I don't know whether you yourself have

7 had an opportunity to examine those records?

8 A. I looked at the two things, yeah.

221 Q. But Mr. Ahern has made available his mobile records and

10 indeed the Leinster House records?

11 A. Maybe, I haven't seen, I just saw the two phone calls on

12 it.

1 222 Q. Well, he has in fact made both available?

14 A. That's fine.

1 223 Q. And I think you will accept that on that particular day

16 that Mr. Ahern was in Leinster House; is that so?

17 A. He must have been, yes.

1 224 Q. Yes; and he have seen the print-out from Leinster House

19 which disclose two phone calls; is that correct?

20 A. Correct.

2 225 Q. I want to go through what that record shows if I may with

22 you. It shows a phone call at 9:40 outgoing from Leinster

23 House to your office; is that correct?

24 A. Yes.

2 226 Q. That is at variance with your record?

26 A. It is. This confuses me very much.

2 227 Q. Do you dispute the authenticity of the record?

28 A. As I said it confuses me very much because the longer in

29 the memo I made, and my memory of this, is that the longer

30 phone call was made after mine, so it confuses me.

3 228 Q. But there are two discrepancies, if I might suggest to you,

32 first of all as you point out it is for a, quite a long

1 period of time, a period down noted as being nine minutes?

2 A. Yes.

229 Q. But also critically it is not in fact to your home, it is

4 to your office; is that so?

5 A. That's correct, yes.

230 Q. So that it is fundamentally different from your own record?

7 A. As I say, this particular print-out confuses me. My memory

8 of it and the memo I made was that the longer phone call

9 was after my one to his mobile.

1 231 Q. Yes; but you say to your house, that the first phone call

11 was to your house; isn't that correct?

12 A. He definitely rang my house and he admitted here in

13 evidence that he was speaking to my wife.

1 232 Q. But when?

15 A. That morning.

1 233 Q. No, if you can remember, if you can recall his testimony

17 was that in fact he had no recall of phone calls on that

18 day, but when put to him, if the record would show it he

19 said he wasn't in a position to --

20 A. He spoke to her that morning.

21 .

22 MR. COONEY: He didn't say "if the record would show" he

23 accepted that he probably did speak to Mrs. Murphy.

2 234 Q. MR. MOHAN: As a result of cross-examining by Mr. Cooney

25 when he said that the record would so show it. I am now

26 going through the records and the record from that morning

27 shows in fact a nine minute call at 9:40 from Leinster

28 House to your office?

29 A. That's correct.

3 235 Q. Do you dispute that that call was made?

31 A. I am confused at the times on these calls Mr. Mohan. I am

32 just confused about it.

236 Q. Do you dispute it?

2 A. There is something wrong somewhere. My memory of it is  
3 that he rang my house, that I rang him back, the short  
4 phone call, and then the longer phone call was afterwards.

237 Q. Yes, but your memory may be incorrect too, Mr. Murphy?

6 A. No, I don't accept that. I am just confused about this.

238 Q. Well, would you accept that it is a possibility that your  
8 memory is incorrect?

9 A. No, I am, I am not sure where this confusion has come.

1 239 Q. Sorry, if you are not sure where this confusion has come  
11 from isn't it a distinct possibility that your memory is  
12 faulty?

13 A. No, I won't accept that.

1 240 Q. You won't on any basis accept that your memory is  
15 incorrect?

16 A. No.

1 241 Q. So there is something wrong with the computer print-out,  
18 with the record; is that correct?

19 A. That would be, that would be my recollection of it, yes.

2 242 Q. Are you suggesting for one moment that it is not authentic,  
21 this record?

22 A. I am not suggesting that at all.

2 243 Q. Are you?

24 A. I am just saying that it is confusing.

2 244 Q. So do you accept the authenticity of this record Mr.  
26 Murphy?

27 A. Obviously this is a record, but I mean he obviously rang my  
28 home that morning. I didn't speak to him on any other  
29 occasion on the phone so it was obviously that morning that  
30 he rang my phone number. This is one extension in Dail  
31 Eireann, did he make the call from another extension, it  
32 was that morning that he rang my home and spoke to my wife,



1 he didn't speak to her on any other occasion. Where are  
2 the records for that call?

245 Q. Are you suggesting that there was no call at 9:40 to your  
4 office which lasted nine minutes?

5 A. My recollection is that the phone call which was nine  
6 minutes is confused in some way with the 10:24 one.

246 Q. I will ask the question again. Are you suggesting that  
8 there was no call from Leinster House to your office at  
9 9:40 which lasted nine minutes?

10 A. I am suggesting that there is confusion somewhere.

1 247 Q. Are you suggesting that there was no phone call made from  
12 Leinster House to your office at 9:40 which lasted nine  
13 minutes?

14 A. I am suggesting that there is confusion somewhere.

1 248 Q. The answer to that is yes or no. You can explain why you  
16 believe it to be so?

17 A. I believe that there is some mistake. I believe that this  
18 should be double-checked again. As I said, I believe that  
19 the longer call, the nine minute call was after my one at  
20 10:14 or 10:15.

2 249 Q. So therefore you are disputing the authenticity of this  
22 record?

23 A. There might be a mistake somewhere.

2 250 Q. There might be a mistake in a computer printed record?

25 A. Maybe.

2 251 Q. Maybe. You say that the second phone call the one which we  
27 have a record of from you, in respect of which lasted one  
28 minute and 56 seconds, was the phone call where you  
29 supposedly or according to your own account, told Mr.  
30 Ahern?

31 A. There is no supposedly about it, I did.

3 252 Q. Well let's just put it in context. What we do know is that

00042

1 Mr. Ahern was very busy and explained that to you during  
2 the course of this phone call which lasted less than two  
3 minutes?

4 A. Correct.

253 Q. Can you tell me what else; this is the one call where you  
6 actually, you say, made contact with him; isn't that  
7 correct, for the first time?

8 A. Correct. Yes.

254 Q. So could you tell us what, what was said for that very  
10 short period of time?

11 A. I told him that, I think I told him that I had received a  
12 call from my wife he said says "yes" and said I was glad to  
13 get the opportunity to speak to him. I said that we had  
14 now uncovered certain information which showed that JMSE  
15 probably paid the money to Ray Burke and that it had come,  
16 I think in the form of 20 in cash and 10 in cheques. He  
17 gave me the impression that somebody was there with him and  
18 he said "listen, thanks for that. It was the one grey area  
19 I wanted to clear up" and he thanked me very much for it  
20 and left the phone down.

2 255 Q. But Mr. Murphy, if you recall this is the first time that  
22 you, the it would have you have spoken since the last  
23 meeting in Fitzers?

24 A. That's correct.

2 256 Q. He is contacting you?

26 A. Yes.

2 257 Q. Now, you have given us an account which suggested that as  
28 soon as you rang him you immediately told him about  
29 everything?

30 A. I did.

3 258 Q. I would have to suggest to you that the phone call would  
32 have taken a slower approach than that, for example would

1 you have greeted each other at least?

2 A. Of course we would have said, HE would have said "Dermot

3 Ahern" and I would have said "Joe Murphy" yes.

259 Q. Yes; but he is ringing you, why are you giving him

5 information?

6 A. No, I rang him.

260 Q. Sorry, he had been looking for you that morning?

8 A. Yeah.

261 Q. Surely you were interested to know why?

10 A. It was something in the back of my mind. I knew what I had

11 said to him on the previous occasions, I wanted to clear it

12 up. I told him in that conversation that we had found out

13 that JMSE had paid the monies. I mentioned the 20 and the

14 10. I told him that that brief conversation. The more

15 detailed conversation from memory with me was after that.

1 262 Q. I heard what you said in that regard, what I am putting to

17 you is that in fact he had been looking for you that

18 morning, did you not ask him "what were you looking for me

19 for"?

20 A. So you now agree that he had rung my home that morning, do

21 you?

2 263 Q. I am not suggesting anything to you. I am taking your

23 account and I am cross-examining you in that regard?

24 A. Yeah.

2 264 Q. What we do know from what you are saying is that there was

26 a phone call earlier that morning, according to your own

27 account?

28 A. Correct.

2 265 Q. So surely you were intrigued as to why he was ringing you,

30 if that be the case?

31 A. Yes.

3 266 Q. And did you ask him why he was ringing you?

1 A. He said he would get back to me. He said he was tied up at  
2 the moment and he would get back to me.

267 Q. No sorry, you misunderstand the question I am asking you.

4 .

5 MR. COONEY: Sorry Mr. Chairman, Mr. Mohan --

6 .

7 CHAIRMAN: With people talking together we get nowhere.

8 .

9 MR. COONEY: Really as a matter of ordinary courtesy, Mr.

10 Mohan must allow the witness to finish what he is saying,

11 even though he doesn't like what he is saying.

12 .

13 CHAIRMAN: First of all Mr. Mohan asked the question, let

14 Mr. Murphy answer the question he is asked and that will

15 stop the confusion.

16

17 MR. COONEY: Yes.

1 268 Q. MR. MOHAN: Mr. Murphy according to your own account you

19 say that there was an exchange earlier that morning between

20 Mr. Ahern and your wife?

21 A. There was.

2 269 Q. So therefore I am suggesting to you that when you rang him

23 you must have been at least in some way intrigued or at

24 least interested as to why Mr. Ahern was ringing?

25 A. Of course, the previous two meetings with Mr. Ahern were

26 about the Mr. Burke and the payment to Mr. Burke.

27 Obviously I knew that Mr. Burke was meeting, was making his

28 speech to the Dail that day, obviously it was in connection

29 with this. I used that first opportunity to give him the

30 new information that had come to light.

3 270 Q. Well, I am putting or I am asking you did you not ask him

32 first what, "why are you ringing"? "What do you want"?

1 A. It was obvious to me why he was ringing. Mr. Burke was  
2 making his speech. It was obviously in connection with  
3 this. I never had any dealings with him in relation to  
4 anything else.

271 Q. What was obvious to you?

6 A. It was obvious to me when my wife relayed the message that  
7 Dermot rang. That it was obviously in some sort of  
8 connection with this matter. I mean he wasn't ringing me  
9 up to talk to me about a football match or anything like  
10 that. Obviously I knew that information, its connection  
11 with this matter and I told him straightaway the new  
12 information that I had.

1 272 Q. You see, according to you of course you must have told him  
14 straightaway. This call lasted one minute and 56 seconds  
15 that is what the record shows?

16 A. Yes.

1 273 Q. Are you saying that you managed to impart all of this  
18 information during that short period of time, taken  
19 together with greetings or any other pleasantries you may  
20 have wished to exchange to him?

21 A. Yes. It can be said quite quickly. I said "Joe, Dermot  
22 Ahern", I said I was glad to talk to him again that I  
23 wanted to clear up what I told him earlier and that JMSE  
24 had paid the money and it looked like £20,000 and 10.

2 274 Q. "It looked like". What do you mean it looked like?

26 A. That it looked from the information that I had got that Ray  
27 Burke had got the money from JMSE.

2 275 Q. Sure you knew?

29 A. And it was 20 and 10.

3 276 Q. But you knew?

31 A. It doesn't take 20 minutes to deliver that message Mr.  
32 Mohan.

277 Q. It didn't look like it at all. You knew as a matter of

2 fact that the 30,000 had come from JMSE, the £20,000 in

3 cash and the £10,000 in cheque, you knew that?

4 A. Yes.

278 Q. It didn't look like it at all?

6 A. I was giving him that information.

279 Q. Did you apologise to him?

8 A. Apologise to him for what?

280 Q. Apologise to him for not coming back to him with that

10 information?

11 A. No, I did not.

1 281 Q. Apologise to him for misleading him?

13 A. Please let me answer the question, you are continuously

14 interrupting me and I won't interrupt your questions, if

15 you don't interrupt my answers; is that fair?

1 282 Q. That is fair. I apologise.

17 A. Right. What was the question again?

1 283 Q. Did you apologise to Mr. Ahern?

19 A. No, I didn't apologise to Mr. Ahern. The information that

20 I had given to Mr. Ahern on the previous occasions was

21 given to him in good faith. I was now giving him new

22 information that had come to light since.

2 284 Q. You have just told us a moment ago that he went, that Mr.

24 Ahern went on to say to you, in a pleasant fashion, that he

25 was glad that you had done this, that it cleared up a grey

26 area for him?

27 A. That was the words he used, yes.

2 285 Q. Did he say anything else in that phone call?

29 A. He said that he was a bit tied up at the moment. I got the

30 impression that there was somebody sitting with him and he

31 would get back to me.

3 286 Q. Are you sure about that?

00047

1 A. Yes.

287 Q. Are you positive?

3 A. Positive.

288 Q. Are you positive that that took place at that phone call?

5 A. I am positive that that took place at that phone call. One

6 hundred percent as I said yesterday, Mr. Mohan, it is

7 inconceivable that I wouldn't have given this information

8 to Mr. Ahern, considering the fact that Mr. Burke's

9 solicitors had written to our solicitors and that we had

10 given this.

1 289 Q. Now--?

12 A. Please don't interrupt me. And that our solicitors had

13 given this information to Mr. Ahern's (sic) solicitors and

14 it was quite possible that this would be used in his Dail

15 Statement that day.

1 290 Q. You are positive those words you have told us were spoken

17 in that phone call?

18 A. Yes.

1 291 Q. No area of doubt, no room for doubt?

20 A. No room for doubt whatsoever.

2 292 Q. Can you just read your statement now please? I wonder if

22 Ms. Dillon could give the witness a memo of the phone

23 call?

24 .

25 MS. DILLON: Of course. (Document handed to witness).

26 .

2 293 Q. MR. MOHAN: Now Mr. Murphy, if I may read from that. "I

28 told him" this is mid way through the second paragraph: "I

29 intended ringing him because after close examination of new

30 information which we had got from our solicitors at the

31 time of the selling of the lands I could now confirm that

32 Ray Burke did get £30,000 of JMSE money. I said it looked

00048

1 like he got 20,000 in cash and 10,000 in a cheque. He  
2 thanked me for this information and said he would ring me  
3 back within a half and hour as he was a bit tied up at the  
4 moment.

5 .  
6 He phoned me back after about 20 minutes and again that  
7 thanked me for that information as it cleared up the grey  
8 area for him".

9 Do you remember what he told us a short while ago?

10 A. Maybe I am mistaken. He said, I do distinctly - he said  
11 "the grey area", whether it was in the first, I mean I  
12 haven't read this memo in a while but he definitely thanked  
13 me for the grey area.

1 294 Q. Sorry Mr. Murphy, I asked you were you one hundred percent  
15 certain, was there any room for doubt whatsoever, that he  
16 said those words?

17 A. And --.

1 295 Q. Sorry just wait until I have asked the question. That it  
19 cleared up a grey area in that phone call and you said  
20 "yes" you were certain. Your own note disputes this  
21 account. Do you see that?

22 A. I see, yes, where it says.

2 296 Q. It disputes your evidence?

24 A. No it doesn't dispute the evidence. The fact that it was  
25 said, I am one hundred percent certain that this was said,  
26 maybe it was said in the second phone call. Sitting up  
27 here I haven't gone through this, maybe I got it wrong.  
28 But he definitely said it, whether it was the first or  
29 second phone call he definitely thanked me and he used  
30 words "grey area".

3 297 Q. Maybe you got it wrong Mr. Murphy?

32 A. I didn't get it wrong. He said those words.



298 Q. You see when did draw up this memo?

2 A. The following day.

299 Q. When did you give it to your solicitors?

4 A. I can't be sure on that. I would have to check the  
5 internal memos.

300 Q. Roughly?

7 A. I would have to check the memos in the solicitor's office.

301 Q. You remember when Mr. Ahern was cross-examined we didn't,

9 we didn't have this memo before his cross-examination. You  
10 know that?

11 A. Of course, yes.

1 302 Q. In fact the memo wasn't even put to him during the

13 cross-examination although details from it were, I accept,  
14 but the memo itself wasn't?

15 A. The discovery order came in afterwards.

1 303 Q. Were you involved in the decision not to circulate this

17 memo to Mr. Ahern?

18 A. Oh, that would be down to the legal people. I am not sure.

1 304 Q. You had no hand, act or part in it?

20 A. That would be down to the legal people. The Order for  
21 Discovery for the memos in Dermot Ahern's conversation came  
22 in after he gave evidence.

2 305 Q. No, Mr. Murphy, I am not talking about an Order of

24 Discovery. I am talking about fairness and ambushing  
25 somebody?

26 A. I am not ambushing anybody.

27 .

28 MR. COONEY: This is an unfair line of cross-examination.

29 It is not a proper line of cross-examination. These

30 matters should not be put to the witness.

31 .

32 CHAIRMAN: Just a moment, I want to run this back because

1 I was looking at a document at the time. As I understand  
2 it the question is this: "In fact the memo wasn't put to  
3 him" that is Mr. Ahern "during the cross-examination,  
4 although details from it were, I accept, but the memo  
5 itself wasn't". "The discovery order came in  
6 afterwards". "Were you involved in the decision not to  
7 circulate this memo to Mr. Ahern". That would be down to  
8 the legal people. I am not sure.

9 Question: You had no hand act or part in it? That would  
10 be down to the legal people. The Order for Discovery for  
11 memos in Dermot Ahern's conversation came in after, after  
12 he gave evidence". That is the answer. "Question: No. I  
13 am not talking about an order, I am talking about the  
14 fairness of ambushing somebody. I was not ambushing  
15 anybody".

16 .  
17 That is the context, Mr. Cooney, which you are complaining  
18 of. What is your complaint?

19 .  
20 MR. COONEY: Well, my complaint --

21 .  
22 CHAIRMAN: Sorry, you see I missed it because I was  
23 looking at a document.

24 .  
25 MR. COONEY: It is not an complaint. It is an objection.

26 .  
27 CHAIRMAN: An objection yes.

28 .  
29 MR. COONEY: This is a matter which the witness discussed  
30 with his legal advisors. Once he did that it falls within  
31 the ambit of privilege, he can't be asked about that. That  
32 is my first objection.

1 .  
2 My second objection is, as I have pointed out again when  
3 Ms. Dillon raised this point, there is no legal obligation  
4 on any witness to furnish written information to this  
5 Tribunal or any other party, and no prejudicial inference  
6 should be drawn from the fact that he hadn't done so. This  
7 is a matter of creating prejudice. It has no probative  
8 value and it intrudes upon client lawyer privilege.

9 .  
10 CHAIRMAN: First of all I don't want to in anyway at all  
11 infringe on client/lawyer privilege in that sense, but I  
12 think it is reasonable to be asking him, was he party to an  
13 ambush, nothing more.

14 .  
15 MR. COONEY: With respect Mr. Chairman that is very  
16 unfair. It is an entirely prejudicial comment to make  
17 about this witness or indeed any other witness.

18 .  
19 CHAIRMAN: He is being asked a question. He answers it.  
20 It is up to him to answer it. It is a question to credit.

21 .  
22 MR. COONEY: What you are doing, Mr. Chairman, is  
23 classifying a particular line of cross-examination as an  
24 ambush. In my respectful submission that is a most  
25 startling and alarming observation for you to make because  
26 it means that instead of having regard to the substance of  
27 the cross-examination, and what was established, or not  
28 during that time, you are dismissing it on the basis of  
29 what you describe as an ambush. That is alarming.

30 .  
31 CHAIRMAN: I am not dismissing anything whatsoever. I am  
32 reading from the text of a question that was asked and I am

1 saying "yes" that he is entitled to ask whether or not he  
2 took that course. The answer may well be, the answer may  
3 well be "no" and that is the end of story.

4 .

5 MR. COONEY: With respect, perhaps I misheard you, but you  
6 said a moment ago that he was entitled to be asked these  
7 questions on the basis that an ambush was had. Now, if it  
8 is your view that the cross-examination of Mr. Murphy is,  
9 of Mr. Ahern on this topic, is an ambush --

10 .

11 CHAIRMAN: We will get what I said.

12 .

13 MR. COONEY: You said "was he a party to an ambush".

14 .

15 CHAIRMAN: First of all, "I don't want to in anyway at all  
16 infringe on client/lawyer privilege in that sense".

17 .

18 MR. MOHAN: I don't want to either. I didn't intend by my  
19 questioning to do that, we know the facts of the matter. I  
20 was simply dealing with what had or had not been  
21 circulated, nothing more than that.

22 .

23 CHAIRMAN: I went on to say that "I think it is reasonable  
24 to be, to examine him. Was he a party to an ambush"?

25 .

26 MR. COONEY: Yes.

27 .

28 CHAIRMAN: "Asking him was it an ambush or nothing more".  
29 I just want to know was he involved in it at all. I don't  
30 know. If he says no. That is the end of the matter.

31 .

32 MR. COONEY: In fairness Mr. Chairman, do you mind. You

1 said, you read out "was he a party to an ambush" is that  
2 the end of your quotation from your own?

3 .

4 CHAIRMAN: "First of all I don't want to, I don't want to  
5 in anyway at all infringe on client and lawyer privilege in  
6 that sense. But I think it is reasonable to be examining  
7 him. Was he party to an ambush"; I don't know where the  
8 bracket comes;"asking him an ambush, nothing more" that is  
9 what the text says.

10 .

11 MR. COONEY: Mr. Chairman, I have to say, with the  
12 greatest of respect, that is the most alarming  
13 observation. That you are characterising part of the  
14 cross-examination of Mr. Dermot Ahern as an ambush.

15 .

16 CHAIRMAN: I am not characterising anything. That was the  
17 question that was put. I didn't in anyway create the  
18 language here.

19 .

20 MR. COONEY: Sorry, with respect Mr. Chairman, you have  
21 just quoted yourself and you said --

22 .

23 CHAIRMAN: But I did not create the situation. The  
24 question was asked in that form.

25 .

26 MR. COONEY: No Mr. Chairman, what you said was --

27 .

28 CHAIRMAN: It was.

29 .

30 MR. COONEY: With respect Mr. Chairman, what you said and  
31 this is a matter of the utmost seriousness. What you said  
32 was you don't want to intrude on the question of

1 privilege. But then you went on to say that he was  
2 entitled to ask the question was he party to an ambush.  
3 Now, that means, Mr. Chairman, inevitably and nothing else,  
4 that you believe or are inclined to regard the  
5 cross-examination of Mr. Ahern on this topic at least, as  
6 being an ambush. That is an, is a most alarming statement,  
7 Mr. Chairman. I don't think you should ever come to such a  
8 conclusion or even had such a thought in your mind, but  
9 apart from that Mr. Chairman to come back now to the point  
10 at issue here. It is not open to Mr. Mohan to  
11 cross-examine a witness on the basis of something which  
12 intrudes on client lawyer privilege. That is the first  
13 thing.

14 .

15 The second thing, it is unfair to do so because it is on a  
16 presumption that there is some obligation on this and  
17 indeed any other witness to circulates documents in  
18 advance. There is no such obligation. The third thing Mr.  
19 Chairman, it is not probative of any of the matters really  
20 in issue. It is merely a matter of prejudice.

21 .

22 MR. MOHAN: If I may --

23 .

24 MS. DILLON: Sorry before the word ambush was first used  
25 by Mr. Mohan in putting the question. You are quite  
26 correct in saying to Mr. Cooney that the word ambush was  
27 used by Mr. Cooney and you were simply using his words in  
28 relation to that.

29 .

30 Mr. Cooney made a submission to you on the 4th of November  
31 1998 in which he required that the Tribunal would lay it's  
32 cards face up on the table. That there would be no

1 surprises for anybody. Everybody would have all  
2 information freely available to them and on foot of that he  
3 made an application to be allowed to examine all of the  
4 discovery documents which had been furnished by Mr. James  
5 Gogarty. On the 14th of January, 1999, a reciprocal  
6 discovery arrangement was entered into by all of the  
7 parties in this Tribunal.

8 .

9 In the light of that submission and in the light of the  
10 agreement I do not understand Mr. Cooney's submission that  
11 he is entitled to keep from the Tribunal the existence of  
12 this memorandum until the 15th of September of 1999,  
13 bearing in mind that Mr. Ahern gave evidence on the 5th of  
14 May 1999. It seems to me, that Mr. Mohan is entitled to  
15 inquire when the document came into existence, when it was  
16 first furnished to the Tribunal, and the circumstances in  
17 which it was not furnished to the Tribunal in advance of  
18 Mr. Ahern's evidence on the 5th of May of 1999. That would  
19 appear to be in keeping with the spirit of Mr. Cooney's  
20 submission on both of 4th of November of 1997 and the 12th  
21 of January of this year.

22 .

23 In relation to privilege insofar as privilege arises, of  
24 course Mr. Cooney is entitled to claim that, but in  
25 relation to the circumstances as to when this document came  
26 into existence, in relation to the fact as to when it was  
27 first made available to the Tribunal, Mr. Mohan is entitled  
28 to inquire, as indeed I am entitled to inquire when it  
29 comes to my turn, in relation to the matter. Mr. Cooney  
30 says that there is no legal obligation on his client to  
31 furnish this document to the Tribunal. Mr. Cooney  
32 therefore seems to have resiled from his position of the

1 4th of November and the 12th of January of this year in  
2 relation to the documents and cards face up on the table.

3 And I am quoting Mr. Cooney in relation to that.

4 .

5 It seems to me Sir, that a Tribunal of Inquiry is an  
6 inquiry into the facts and all facts that are available  
7 should be made available, warts and all, whatever their  
8 position might be and it seems to me, Sir, that it is  
9 unfair that a witness would go into the witness-box here in  
10 which there is a memorandum of a telephone conversation  
11 with him available, the contents of which are put to him,  
12 the existence of the memorandum is not put to him, and that  
13 his reputation is put in issue as a result of that.

14 .

15 All parties before this Tribunal must make full discovery  
16 to you to aid the Tribunal in it's work. When the Tribunal  
17 is not given access to the documents on a voluntary basis,  
18 orders have to be made. It is undoubtedly the case that on  
19 occasion the orders may not garner all the documents that  
20 are available but parties who say that they are cooperating  
21 with the Tribunal, who want to assist the Tribunal in it's  
22 endeavour have an obligation whether there is an order for  
23 discovery or not, to make all documents available to you  
24 Sir, so that you can circulate them and so that fairness of  
25 procedures and matters so dear to Mr. Cooney's heart can be  
26 observed by the Tribunal. I am astounded by at the  
27 submission made by Mr. Cooney this morning.

28 .

29 MR. COONEY: I wonder for the record please, these are  
30 matters -- when I spoke in November and January of this  
31 year I assumed that this Tribunal would adopt a fair and  
32 normal procedure such that for instance there would be a



1 opening statement and we would be told what allegations  
2 were made against us. I spoke on those occasions on the  
3 assumption that the procedures inevitably followed by all  
4 Tribunal's would be followed by this Tribunal. And that an  
5 opening statement in which the allegations against us would  
6 be set out, verbally at least, that they would be given to  
7 us in written form. That hasn't happened, Mr. Chairman.

8 .

9 And when I spoke on the opening day of the 12th of January  
10 I made my objection very plain to the fact that there was  
11 no opening statement and that it was intended to put Mr.  
12 Gogarty, or the main accuser into the witness-box without  
13 any preliminary point. It was in that context that I was  
14 speaking. Apart from that Mr. Chairman, I have to say that  
15 part of the, what I will call the extraordinary ethos of  
16 this Tribunal is summed up by what Ms. Dillon has said.  
17 She seems to think that not only can we not defend  
18 ourselves, but we must come in and furnish evidence which  
19 she thinks might help to prove our guilt. It is  
20 demonstrable of the perverse way in which things stand on  
21 their heads in this Tribunal, that we are obliged to do  
22 something which you wouldn't be obliged to do in any other  
23 Tribunal or any other court of law. It is an astonishing  
24 assumption.

25 .

26 CHAIRMAN: Mr. Mohan, this matter I think should be  
27 resolved. I was quoting, in the phrase I used "ambush" was  
28 using your phraseology.

29 .

30 MR. MOHAN: I did in fact use it, yes.

31 .

32 CHAIRMAN: And what I believe the situation to be, that

1 you are not entitled to inquire as to advices given as  
2 between lawyer and client, but you are entitled to put a  
3 proposition as to whether certain events are in the  
4 witness' view fair.  
5 .

306 Q. MR. MOHAN: Thank you, Mr. Chairman. On the day that Mr.

7 Dermot Ahern gave evidence you had had sight of his two  
8 memos?

9 A. Correct.

1 307 Q. The two memoranda. You would have pored over them yourself

11 and taken a close look at them I suppose?

12 A. I looked at them, yes.

1 308 Q. And saw what you agreed with and what you disagreed with;

14 isn't that correct?

15 A. Correct.

1 309 Q. And based upon that you would instruct your own, your

17 counsel to conduct a cross-examination; isn't that correct?

18 A. We would have discussed it, yes.

1 310 Q. At that point in time was this memo in existence?

20 A. Of course, it was in existence from the 11th of the 9th

21 '97.

2 311 Q. You will note that it wasn't referred to once in the

23 cross-examination of Mr. Ahern?

24 A. I think that everything that was in that memo was put to

25 Mr. Ahern.

2 312 Q. There were bits of this that were not put and there are

27 indeed some matters that were put, I accept that. Mr.

28 Ahern had no sight to that prior to his cross-examination?

29 A. No.

3 313 Q. He wasn't in a position to deal with it?

31 A. No.

3 314 Q. You heard him saying that he had difficulty recollecting in

1 relation to events which had taken place on that day?

2 A. He had extreme difficulty recollecting, yes.

315 Q. Do you think that was fair not giving him that memorandum

4 before his evidence?

5 .

6 MR. COONEY: Really Mr. Chairman, again this is not a

7 matter for this witness. I object, would you please, with

8 respect, Mr. Chairman make a definitive ruling on this? It

9 is either --

10 .

11 MR. MOHAN: With respect through the Chair, I thought you

12 had made a ruling to the effect --

13 .

14 CHAIRMAN: I did. That is precisely the phrase I used.

1 316 Q. MR. MOHAN: Now Mr. Murphy, if I could put the question in

16 the context that I outlined to you. Do you think it was

17 fair?

18 A. I do. I think that what is in this memo was put to him.

1 317 Q. No. Do you think it was fair that Mr. Ahern had not had

20 sight of this prior to him giving evidence?

21 A. Yes, it is fine.

2 318 Q. So he had no notice of it and you think that's fair?

23 A. Yes.

2 319 Q. He gave you his, the memoranda he was relying upon, you had

25 them?

26 A. He didn't give them to me, no.

2 320 Q. He --.

28 A. The Tribunal gave them.

2 321 Q. It was given to the Tribunal?

30 A. Correct.

3 322 Q. Are you making an issue on that point are you?

32 A. No, I am not making any issue on it.

323 Q. In any event your evidence was that it was fair for him not  
2 to have sight?

3 A. That I would have taken legal advice, that would have been  
4 up to my legal team.

324 Q. I am not asking you about your legal team. I am asking you  
6 about your own view, if you think it is fair, so-be-it.  
7 .

8 CHAIRMAN: Mr. Mohan, you are transgressing into the world  
9 of advice. That is the one point, privilege, what the  
10 advice was is a matter of privilege.  
11 .

1 325 Q. MR. MOHAN: I don't wish to ask at all about the advice, I  
13 am asking you did you yourself think it was fair?

14 A. I received --  
15 .

16 MR. COONEY: That is asking him to express an opinion on  
17 legal advice which is quite the same thing. Now I think  
18 this should be brought to an end, with respect.  
19 .

20 CHAIRMAN: This is going nowhere. We will pass from it.  
21 .

2 326 Q. MR. MOHAN: We will pass from it. Now, the final, in the  
23 final phone call, you were able to remember details  
24 according to your own account, in relation to sums of money  
25 that had been given to, I think, the PDs by way of a  
26 political contribution?

27 A. I think so, yes, yes. That's correct, yes.

2 327 Q. You had amazing recall in that regard, I suggest?

29 A. I didn't have a recall in it. I was made aware of this by  
30 Frank Reynolds.

3 328 Q. So Frank Reynolds was able to tell you of the donations  
32 which were made over the last 7 or 8 years?

1 A. No, this specific donation to the PDs stuck out because Jim  
2 Gogarty initiated this.

329 Q. This is the man that couldn't remember the £30,000?

4 .

5 MR. COONEY: That is comment Mr. Chairman.

6 .

330 Q. MR. MOHAN: You see, it is a question; this is a man who

8 when you asked about a donation of £30,000 or political

9 donation to Mr. Burke, had no, to quote his statement "had

10 no specific recollection of it".

11 A. He doesn't know anything about the payment to Mr. Burke.

1 331 Q. But he can remember a small donation of £1,000?

13 A. No, he didn't remember when we were searching for the

14 documents at the time. He highlighted this one because Jim

15 Gogarty initiated this thousand pounds to the PDs, that one

16 would have been highlighted because it concerned Gogarty.

1 332 Q. You were also able to recall 7 or 8 donations over the past

18 7 or 8 years and these were given due to persistent

19 requests by letter?

20 A. Correct, yes, I wasn't able to recall it. As I say this

21 information would have been dug out when we were doing our

22 investigation.

2 333 Q. But not beforehand?

24 A. No.

2 334 Q. You wouldn't have bothered with them beforehand?

26 A. I mean, I would have known, you know, there might have been

27 a couple there around election time, I wouldn't have

28 remembered the figure. 2, 3 £400 whatever. All this

29 documentation, a thousand pounds to the PDs, that one

30 particularly stuck out because it was initiated by Jim

31 Gogarty.

3 335 Q. You say that this was a grey area for Mr. Ahern, why was it

1 a grey area, if we had Burke's statement already in August

2 saying that he had --

3 A. It would have been a grey area because it was left in the

4 air and the information that I had given him in good faith

5 at the time, so that is what you refer to as a grey area --

6 .

7 MR. COONEY: It was Mr. Ahern who used the term "grey

8 area".

9 .

1 336 Q. MR. MOHAN: According to Mr. Murphy?

11 A. Well, that is the way I read what Mr. Ahern was saying to

12 me.

1 337 Q. You see, Mr. Murphy, I have to suggest to you that you

14 never told him that, of the £20,000 cash and the £10,000

15 cheque in the manner on that day, in that manner on that

16 day?

17 A. That is a complete and utter lie, it is. I did. It is

18 inconceivable that I wouldn't. The reason why your client

19 rang me that morning, as I have said in the memo, it was to

20 get ammunition to attack the opposition and it is

21 inconceivable that Mr. Burke would have, may be using that

22 information, it is inconceivable that I wouldn't have told

23 him. That is totally incorrect.

2 338 Q. Can you think of any possible reason that Mr. Ahern would

25 have not, for example to say what he has already said, that

26 you didn't tell him this?

27 A. Of course. Of course.

2 339 Q. What possible reason?

29 A. Because of the defamation writ, because he went on

30 television. He went on television.

31 .

32 MR. COONEY: Please, with respect.

1 .

2 CHAIRMAN: Please, with respect Mr. Cooney, you don't  
3 help, don't help. Please, you must not interfere with the  
4 witness answering.

5 .

6 MR. COONEY: Thank you, Mr. Chairman.

7 A. Your client, sorry Sir, Mr. Chairman.

8 .

9 CHAIRMAN: Can I have the answer again please?

10 A. Your client went on television on the 15th of September,  
11 five days after these phone calls and regardless of what  
12 sequence they are, it is proved that there was a series of  
13 three phone calls and he denied ever speaking to go me.  
14 This is five days after these phone calls.

1 340 Q. If we have to go through the record of that we will go  
16 through the record of that. I suggest to you that that is  
17 not the case. This is the Questions and Answers television  
18 programme?

19 A. Yes.

2 341 Q. Well, the record will show that that is not the case. The  
21 programme can be brought in.

22 .

23 CHAIRMAN: You better put what the - what you say is the  
24 record.

2 342 Q. MR. MOHAN: I am suggesting to you that on the, on that  
26 programme, what he did say was that he had no, that he had  
27 no further meeting, I have a --.

28 A. Since London, since the London one.

2 343 Q. Since London?

30 A. Contact I think may have been the word, I stand corrected,  
31 I think that since London.

3 344 Q. It is also qualified, I have none of the phrases in front

1 of me, in that context as well I don't have the phrase in  
2 front of me?

3 A. Well maybe we should get that out.

345 Q. Maybe we should. But the point I am putting to you, what  
5 possible reason would Mr. Ahern have had to have got  
6 involved in this, in coming to a contra view to you in  
7 relation to these phone calls at this point in time. I  
8 mean what reason?

9 A. For what?

1 346 Q. Why would he?

11 A. He denied, he initially denied these phone calls when he  
12 came in here. And under cross-examination by Mr. Cooney  
13 then he said they may have occurred. Of course, he denied  
14 that I told him about the 10 and the 20 to protect himself.

1 347 Q. To protect himself. What has he got to protect?

16 A. Against the defamation writ I have against him.

1 348 Q. Against the defamation writ after you totally misrepresent  
18 the position?

19 A. I didn't misrepresent.

2 349 Q. Of course you did?

21 A. I don't accept that whatsoever. Your client came into this  
22 Tribunal and blatantly lied to this Tribunal when he told  
23 the Chairman that the first he heard about these cheques  
24 was when the Tribunal started, but suddenly --.

2 350 Q. But --.

26 A. Please don't interrupt me, Mr. Mohan. But it was soon  
27 pointed out to him that he was sitting very close to Mr.  
28 Burke when Mr. Burke made his Dail Statement on September  
29 the 10th.

3 351 Q. I am suggesting to you and I am putting it to you here and  
31 now that you are lying?

32 A. I am not lying. Your client is lying.



352 Q. Can I finish the question; and lying through your teeth

2 when you met him on two occasions that you knew there was

3 £30,000 had been paid and secondly, I put it to you that

4 you never told him in those phone calls.

5 A. That is totally incorrect.

6 .

7 MR. COONEY: Two questions. Now could the witness be

8 allowed to answer both questions in sequence?

9 A. I did not know, everything I told your client on both

10 occasions was in good faith. I used the phone calls on the

11 10th which initially he denied, to avail of the opportunity

12 to put him in the picture. I deny totally your accusation

13 and I go a little bit further, that your client blatantly

14 came in here and lied to the Tribunal.

1 353 Q. Well, we can get into a slanging match in relation to who

16 lied. I am putting it to you that you lied?

17 A. No, he lied.

1 354 Q. But the point is and I want to put this to you, what

19 possible interest had Mr. Ahern to protect?

20 A. By denying these phone calls when he was cross-examined

21 here?

2 355 Q. No, by denying the phone calls at any point. What interest

23 has he got to protect?

24 A. Protect his own personal interest.

2 356 Q. What is his own personal interest? What difference to him

26 was it if the phone call was made or not made?

27 A. Because he, as I say, in 1998, the defamation writ he is

28 protecting, he came in here and protected himself by lying

29 against the defamation writ in 1998.

3 357 Q. Sorry Mr. Murphy what he said on an RTE programme he stands

31 over and a full defence has been filed, you know that, a

32 defence of justification, you know that?

1 A. Fine.

358 Q. He --.

3 A. Fine. I look forward to that very much.

359 Q. Indeed. But the point I am asking you, if you would answer

5 this, prior to that he has never changed his view as to

6 what you told him or didn't tell him. What I want to put

7 to you is what possible interest was he protecting?

8 A. Because the first time the phone calls were put to him he

9 denied it and the first time the phone calls were put to

10 him was this year. This is after what he said on the

11 television. Protecting himself.

1 360 Q. I don't think you understand the question. What interest

13 is he protecting in saying one thing or another. If he had

14 a faulty memory maybe so, but what interest is he

15 protecting?

16 A. He is protecting his own interest.

1 361 Q. He had no agenda with you before this. No agenda with Mr.

18 Gogarty?

19 A. When he came in before this Tribunal and first of all

20 denied point blank there had been any conversation on the

21 morning of September the 10th, then he said he couldn't

22 remember. That is when he was protecting his interest.

2 362 Q. I have to suggest to you that this memo is nothing other

24 than a blatant attempt to discredit and embarrass Mr.

25 Ahern?

26 A. I have; no, this is not an attempt to embarrass him in any

27 way, shape or form. We unfortunately find ourselves at

28 odds. And I reject totally your accusations.

2 363 Q. There is one, I want to leave the phone calls. There is

30 just one other question which I neglected to put to you

31 yesterday and I just want to, if I may put it to you now.

32 You remember that, I cross-examined you, I think at some

1 length about Mr. Copsey's knowledge and Mr. Reynold's  
2 knowledge that was in the context that the inquiries you  
3 had conducted, you said that you had spoke to Mr. Copsey  
4 and that you had spoken to Mr. Reynolds; also you told us  
5 that you had asked your father about whether or not a  
6 payment had been made; isn't that correct?

7 A. That's correct.

364 Q. There is - and he told you "no" that there wasn't or that  
9 he had no knowledge of any payment?

10 A. Correct.

1 365 Q. There is a letter I do want to put to you and I think it  
12 may have already been put to you by Ms. Dillon. It is JMSE  
13 19.4-68. I will have to get a copy of that. It is a  
14 letter from Copsey Murray Chartered Accountants. It is re  
15 Grafton Construction/Reliable. The date is the 9th of June  
16 1989. I am not going to read it until you all have a  
17 copy. It is JMSE 19.4-68.

18 .

19 MS. DILLON: It should be the in the book of circulated  
20 documents.

21 .

22 MR. MOHAN: It is in the red book, page 57.

23 .

24 CHAIRMAN: Before this is put, I want to get a copy. It  
25 is coming up now to me.

26 .

27 MS. DILLON: Sorry, is it 19.468.

28 .

29 MR. MOHAN: Yes.

30 .

31 MS. DILLON: It is page 93 in the red book

32 .

1 MR. MOHAN: Sorry.

2 .

366 Q. MR. MOHAN: Has Mr. Cooney got a copy?

4 .

5 MR. COONEY: Yes, I have.

367 Q. MR. MOHAN: Mr. Murphy, have you a copy of in front of  
7 you?

8 A. 19.468.

368 Q. A letter from Copsey Murphy Murray and Co.

10 A. To Denis McArdle.

1 369 Q. Yes?

12 A. Yes.

1 370 Q. This is dated the 9th of June. Obviously at a critical  
14 time in relation to the payments, I will just read the  
15 letter if I may. "Dear Denis, I confirm that Joe has  
16 authorised me to appropriate a sum of £16,500 from the  
17 amounts that you currently hold for the above companies. I  
18 would be obliged for a remittance at your earliest  
19 convenience. Yours Roger Copsey".  
20 I presume that is your father?

21 A. Correct.

2 371 Q. And this is, as we know now, is the putting the money back  
23 that had been taken out; is that correct?

24 A. No, that is not correct.

2 372 Q. What is this?

26 A. I stand corrected, this is in relation to Copsey Murray's  
27 own fees for work they were doing on behalf of the company.

2 373 Q. This has no relevance whatsoever in relation to monies  
29 which had been taken out of JMSE accounts for the 30,000?

30 A. I am 90% sure, well I am 100 per cent sure that it has  
31 nothing got to do with that money. I am 90 percent sure  
32 this might be Copsey Murray's ongoing fees for the work

1 they were doing at the time. You are barking up the wrong  
2 tree there Mr. Mohan.

374 Q. I am happy to confirm it if that was the case, you say it  
4 had nothing whatsoever to do with the payments that were  
5 done, or the replenishment for those funds?

6 A. That has nothing do with the payments, Mr. Mohan.

375 Q. Thank you very much.

8 A. Thank you Mr. Mohan.

9 .

10 MR. FOX: I reserve my position with regard to Mr. Murphy.

11 I have no questions for Mr. Murphy.

12 .

13 CHAIRMAN: Thank you. Mr. Cooney what do you want to do,  
14 do you want to start?

15 .

16 MR. COONEY: I would prefer to rise, if I could now,  
17 Mr. Chairman. I know it is early but we have been sitting  
18 since half ten without a break.

19 .

20 MS. DILLON: We do have a short alibi witness.

21 .

22 MR. COONEY: Please we have a witness from Leitrim.

23 .

24 MS. DILLON: The word first used by Mr. Cush, not used by  
25 the Tribunal, only adopted. I don't know whether Mr.  
26 Cooney --

27 .

28 CHAIRMAN: Are you involved, do you want to cross-examine  
29 this witness?

30 .

31 MR. COONEY: Probably not Mr. Chairman, I see no reason  
32 why that witness couldn't now be called.

00070

1 .

2 CHAIRMAN: That is what I am going to do.

3 .

4 MR. COONEY: Absolutely.

5 .

6 CHAIRMAN: Then we will rise for lunch and you will resume  
7 at two o'clock.

8 .

9 MR. COONEY: Will you call this witness now,  
10 Mr. Chairman?

11 .

12 CHAIRMAN: Yes. Once we finish this witness, so if you  
13 wish to take your departure and leave this witness in the  
14 hands of Mr. Cush, you are very welcome to do so.

15 .

16 MR. COONEY: Thank you very much, Mr. Chairman.

17 .

18 MS. DILLON: Mr. Colin Foley please?

19 .

20 COLIN FOLEY HAVING BEEN SWORN WAS EXAMINED BY MS. DILLON AS  
21 FOLLOWS:

22 .

2 376 Q. Good morning Mr. Foley?

24 A. Morning.

2 377 Q. My name is Patricia Dillon. I am one of the barristers  
26 with the Tribunal, I want to ask you some questions about a  
27 statement that was made on the 29th of January of 1999?

28 A. Okay.

2 378 Q. Do you remember making that statement?

30 A. Yes.

3 379 Q. Yes. The statement was furnished to the Tribunal on the  
32 16th of April of 1999 by Messrs. Fitzsimons Redmond?

00071

1 A. Yes.

380 Q. Right. Now, I think that your address is Church Street,

3 Drumshanbo, County Leitrim?

4 A. We have moved since then, but we are still in the same

5 town.

381 Q. I think you are not at Church Street, but you are still in

7 Drumshanbo?

8 A. Yes.

382 Q. I beg your pardon, are the owners of a public house there

10 or were --.

11 A. They were, that is the premises that we sold.

1 383 Q. You sold that premises?

13 A. Yes.

1 384 Q. I think your mother is Sheila Foley; is that correct?

15 A. Yes, that's correct.

1 385 Q. And I think that your father is Charlie Foley?

17 A. That's right.

1 386 Q. Is that correct?

19 A. That's correct, yes.

2 387 Q. And your parents were the proprietors of a public house in

21 Drumshanbo?

22 A. That's correct.

2 388 Q. And were you friendly with Mr. Joseph Murphy, did you know

24 Mr. Murphy at all?

25 A. Did I know him at all?

2 389 Q. Did you grow up with Mr. Murphy?

27 A. No, no.

2 390 Q. But you knew him reasonably well?

29 A. Yes.

3 391 Q. And I think you were at the removal of Mrs. Mary Elizabeth

31 Flynn on the 10th of June of 1989?

32 A. Yes.

392 Q. Can you tell me why you can recollect that?

2 A. I am sorry, explain that again?

393 Q. Why do you remember that funeral?

4 A. Well, the woman that died in question, she was a neighbour

5 of my granny's, so I knew her very well. So I was present

6 at the wake, or the removal and the funeral.

394 Q. So do you remember seeing Mr. Murphy at the removal?

8 A. At the removal, yes.

395 Q. And do you remember seeing any other member of the Murphy

10 family at the removal?

11 A. I saw his sister, Angela, afterwards, not at removal, later

12 on that night of the same --

1 396 Q. Thereafter did Mr. Murphy go to your lounge bar with some

14 friends and relatives?

15 A. Yes.

1 397 Q. And he was there for the evening of Saturday the 10th of

17 June?

18 A. Yes.

1 398 Q. And tell me why you recollect that?

20 A. Because on the night I was actually serving behind the bar

21 on the night in question.

2 399 Q. When you made this statement in 1999, that was ten years

23 later Mr. Foley; isn't that right?

24 A. Yes.

2 400 Q. And can you tell me how can you look back after ten years

26 and be so absolutely sure about it?

27 A. During the time of the death of Mrs. Flynn I was doing my

28 Leaving Certificate examinations in school at the same

29 time, so my exams were going on, that is why I remember it

30 so well, because I had started my exams.

3 401 Q. Yes, in or around early June of 1989?

32 A. Well, the week before actually, of that week, I started my



1 exams and the weekend then, the weekend was then the  
2 weekend that Mrs. Flynn was buried. I was still doing my  
3 exams the week after that again, in June of '89.

402 Q. Yes; and do you recollect going to the funeral mass  
5 yourself?

6 A. Yes, I do.

403 Q. Yes?

8 A. Yes.

404 Q. And can you tell me what you recollect about that?

10 A. Well, Joseph and Angela were present at that as well, as  
11 were all the rest of the relatives and family.

1 405 Q. What other relatives of the Murphys were there, can you  
13 recollect?

14 A. Just Angela and Joseph Murphy Jnr. is all I recollect.

1 406 Q. I think there after you went to a meal in the County Hotel,  
16 Carrick on Shannon?

17 A. That's correct.

1 407 Q. Did you go?

19 A. Yes.

2 408 Q. Did your parents go?

21 A. Yes.

2 409 Q. And you left sometime that evening; is that correct?

23 A. I think approximately 6:30.

2 410 Q. Yes, and what did do you?

25 A. Well, I just - after we had the meal we just all chatted  
26 and talked. I talked to Joe for a while and then I left  
27 for home myself, but he was still there when I left for  
28 home.

2 411 Q. What did you do when you went home?

30 A. Not much I don't think, it was a Sunday evening I think.

31 Just went over, I suppose if I had exams the next day.

3 412 Q. What exam did you have the following day?

1 A. I think it was the Irish.

413 Q. And after that, can you remember?

3 A. No, I think I had drawing later on in the week. I think it

4 was Irish on the Monday.

414 Q. Are you sure?

6 A. I am not positive.

415 Q. No, all right. Thank you very much, Mr. Foley. Would you

8 answer any questions that any of the gentlemen here may

9 have for you please?

10 A. Yes.

11 .

12 MR. CUSH: No questions.

13 .

14 MR. CALLANAN: To questions.

15 .

16 CHAIRMAN: No questions. Thank you very much for coming

17 in. Thank you very much. You are free to go.

18 .

19 THE WITNESS THEN WITHDREW.

20 .

21 MS. DILLON: Subject to Mr. Cooney then, Sir, this

22 afternoon.

23 .

24 CHAIRMAN: We will start at two o'clock with Mr. Cooney.

25 .

26 MR. COONEY: Yes, two o'clock.

27 .

28 CHAIRMAN: Two o'clock. Very good.

29 .

30 THE HEARING THEN ADJOURNED FOR LUNCH.

31 .

32 .

1 .  
2 .  
3 .  
4 .  
5 .

6 THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

7 .

8 MR. COONEY: May it please you, Mr. Chairman. May I  
9 commence now, Mr. Chairman?

10 .

11 CHAIRMAN: Certainly.

12 .

13 MR. COONEY THEN EXAMINED THE WITNESS AS FOLLOWS:

14 .

1 416 Q. MR. COONEY: Mr. Murphy, I want to ask you some questions

16 arising out of the matters which were put to you over the

17 last six days and also - but before I come to deal with

18 these specific matters I want first of all to deal with

19 what is the crucial issue in this Tribunal, and that is

20 whether or not there is any truth in the allegations that

21 Mr. James Gogarty has made against you, both to the press,

22 to the press, in his affidavit of evidence and in his sworn

23 evidence?

24 A. No.

2 417 Q. And essentially, he says that you paid a sum of money to

26 Mr. Raymond Burke, who was then a member of government, and

27 did so for the purpose of enhancing the value of the lands

28 which were owned by companies that you were associated

29 with; isn't that correct?

30 A. Correct, yes.

3 418 Q. And in furtherance of that allegation, he says that prior

32 to the payment of this sum of money, you had participated

1 in meetings in the premises in Santry at which arrangements  
2 to make this payment was put in hand; isn't that right?

3 A. Correct, yes.

419 Q. Now, I think that these are the two critical allegations  
5 which have been made against you, by Mr. Gogarty; isn't  
6 that right?

7 A. That's correct.

420 Q. And he made them to Mr. Connolly who repeated them in the  
9 Sunday Business Post not once but on many occasions, he  
10 made them in his affidavit of evidence and at length while  
11 he was in the witness-box; isn't that right?

12 A. That's correct.

1 421 Q. He also alleges in, perhaps in support of those allegations  
14 that you also participated in what are to be implied as  
15 corrupt payments to Mr. George Redmond a senior official  
16 with Dublin County Council at that time; isn't that  
17 correct?

18 A. Correct.

1 422 Q. He certainly alleged one specific payment of £15,000 in or  
20 around the end of June, and shortly after you are alleged  
21 to have made the payment to Mr. Burke; isn't that correct?

22 A. Correct, yes.

2 423 Q. And I think with less certainty he suggested that you had  
24 paid another sum, I think in the way of Mr. Redmond of  
25 £10,000, and as he put it, you are sorting him out; isn't  
26 that correct?

27 A. Correct, yes.

2 424 Q. I think these are the core allegations which have been made  
29 against you by Mr. Gogarty; isn't that right?

30 A. That's right.

31 .

32 CHAIRMAN: Mr. Cooney, could I just interrupt you for one

1 moment, by way of clarification. When you are using the  
2 word "against you", I take it you are using the corporate  
3 entity?  
4 .

425 Q. MR. COONEY: No, Mr. Chairman, I am talking about Mr.

6 Murphy as an individual, personally. I think, yes, if I  
7 just may respectfully pick up the point which the Chairman  
8 has raised, Mr. Murphy, all of these allegations were made  
9 against you personally; isn't that right?

10 A. That's correct.

1 426 Q. There is no doubt, that you as an individual are alleged to  
12 have committed all of these acts of corruption, alleged  
13 corruption' isn't that so?

14 A. That's correct.

1 427 Q. And that was the entire thrust of Mr. Murphy's evidence,  
16 Mr. Gogarty's evidence, I think you will agree?

17 A. Yes.

1 428 Q. And I think that associated with these specific allegations  
19 is, you agree, that there were clear expressions of venom  
20 and hatred for you personally from Mr. Gogarty?

21 A. That's correct.

2 429 Q. Could you give the Chairman one or two examples of this  
23 hatred and venom that he entertained from you, quite apart  
24 but connected to these critical allegations?

25 A. When my meeting with him in the Berkley Court in 1992, he  
26 emphasised, as I have already given evidence, in no  
27 uncertain terms that he would destroy us. He said that he  
28 had taken files, loads of documents, files out of the JMSE  
29 offices and that if he didn't get the £400,000 that he  
30 would destroy us, he would take it out on me personally in  
31 his own words, he said "You are the boss now. You are the  
32 man now and mark my words, I will destroy you".

430 Q. Yes. Now, I think you were here while he was giving his  
2 evidence over a very long period of time?

3 A. I was.

431 Q. Do you recall him directing any personal abuse and venom  
5 against from you that witness-box?

6 A. Yes. I think he directed venom against a lot of people  
7 here, but I think most of it was directed towards me.

432 Q. I think, if necessary, the transcript can demonstrate many  
9 examples of this personal venom and hatred for you; isn't  
10 that correct?

11 A. That's correct, yes.

1 433 Q. For instance he made allegations against you and said you  
13 were convicted of assaulting a woman, which is a patently  
14 false allegation; isn't that correct?

15 A. Completely untrue.

1 434 Q. And he said that not once or twice, but three times; isn't  
17 that right?

18 A. That's correct.

1 435 Q. I have to suggest to you, that one of the major features of  
20 this Tribunal has been the degree of hatred demonstrated  
21 against you personally, by Mr. Gogarty?

22 A. That's correct. I was shocked at the level of abuse that  
23 he gave to me from this witness-box over a four month  
24 period.

2 436 Q. I see. Now, against the background of these allegations,  
26 Mr. Gogarty's attitude towards you, Mr. Murphy, I want to  
27 ask you some general questions about how you became first  
28 actively involved in the affairs of the Murphy Group of  
29 companies. You have told us that you were born in 1962,  
30 so you are now 37 years of age; isn't that correct?

31 A. Correct.

3 437 Q. And I think that you first became involved in 1988 when you

1 were 26; isn't that right?

2 A. Correct.

438 Q. I think you had, you described your educational career, you

4 had been in UCD but hadn't finished; isn't that right?

5 A. Yes.

439 Q. You went to work, worked during summer vacations with JMSE

7 on the factory floor, driven a truck up and down to

8 Moneypoint carry materials and so on?

9 A. Correct.

1 440 Q. After you left college you then went to England and worked

11 with the United Kingdom companies, again in a manual

12 capacity?

13 A. Correct, yes.

1 441 Q. I see. And you continued at that for some time; isn't

15 that right?

16 A. That's correct, yes.

1 442 Q. And did your involvement then with the management or

18 executive side of the Group of companies first occur when

19 you were asked, when you were appointed a director in 1988,

20 and in the course of replacing the then current directors?

21 A. Yes, in 1988, as has been well documented here, there was a

22 bit of turmoil in the company at the time, my father asked

23 me to come over from London and, for a meeting which was

24 held in Wilton Place, and the object of this exercise was

25 to prevent Mr. Gogarty from being dismissed by the board,

26 by the previous board of JMSE.

2 443 Q. Yes, but that period of 1988 was the first time, I think,

28 Mr. Murphy, that you became involved in what I might call

29 "the upper echelons" of the Murphy Group of companies; is

30 that correct?

31 A. Correct, yes.

3 444 Q. I see. Before that time had you ever exercised any

1 managerial or executive function within the companies?

2 A. No.

445 Q. I see. Now, we know that the turmoil was eventually

4 brought to an end by the replacement of the then current

5 board and you became a director. When did you first begin

6 to play an active hands on part in the management of any of

7 the companies, either in the United Kingdom or in Ireland?

8 A. In the United Kingdom probably sooner in the cable laying

9 companies. Probably in or around 1989 I became maybe more

10 senior manager, while I did attend four, three, four, five

11 board meetings in JMSE, this was purely to support the new

12 management, Frank Reynolds, Gay Grehan, Roger Copsey, but

13 my real involvement in the Irish Group of companies did not

14 start until 1990.

1 446 Q. I see. Now, I think that as we know, Mr. Gogarty had been

16 Managing Director, he was succeeded by Liam Conroy who was

17 succeeded then by Mr. Tim Parker for a short period?

18 A. That's correct, yes.

1 447 Q. Now, I think you have already made mention of Mr. Parker

20 and about when he was first recruited to the company.

21 Would you tell the Chairman whether or not what you said on

22 that particular topic in answering Ms. Dillon was correct

23 as far as you remember?

24 A. No, I was incorrect in my evidence to Ms. Dillon. On

25 further checking Mr. Parker was recruited in the earlier

26 part of 1988 and not in the, sorry '89, in the earlier part

27 of '89 and not in the November, December time. This is on

28 further checking, I inadvertently --.

2 448 Q. How long did Mr. Parker remain with the company in that

30 capacity?

31 A. I think for the best part of in or around 12 months.

3 449 Q. And was, were his responsibilities limited to the Irish



00081

1 companies only?

2 A. No, his responsibility was JMSE and AGSE, the steel  
3 companies.

450 Q. The steel companies. I see. Then he remained until  
5 sometime in 1990; is that correct?

6 A. Correct, when Frank Reynolds became Managing Director.

451 Q. And Mr. Reynolds has remained Managing Director from that  
8 time down to the present day?

9 A. That's correct.

1 452 Q. I think in that capacity he has been responsible for the  
11 day-to-day operations of JMSE and AGSE?

12 A. That's correct.

1 453 Q. But you are the Chairman of the board?

14 A. I am.

1 454 Q. Now, in terms of the division of your time and application  
16 of your time to the UK companies and companies here in  
17 Ireland, could you tell the Chairman how that works out?

18 A. Maybe in percentage terms, 85, 15. I mean maybe one or  
19 two days a month I might visit the JMSE premises, or a site  
20 or whatever. I mean some months it may be more, might be  
21 three days. On average a day or two a month.

2 455 Q. I see. In other words that the greater portion of your  
23 time since you first assumed responsibility has been  
24 devoted to the operations of the United Kingdom?

25 A. Physically in the United Kingdom, of course I keep in touch  
26 with Mr. Reynolds on the phone.

2 456 Q. Yes, in fact you work principally out of your offices in  
28 the companies' headquarters in Tottenham in London?

29 A. That's correct.

3 457 Q. That has been the position since you took on a senior  
31 management role in 1990?

32 A. That's correct.

458 Q. I see. Now, I want to relate these facts back to the  
2 events of 1988 and '89. Again I have already dealt with  
3 the allegations which were made against you by Mr. Gogarty,  
4 and implied in these allegations is that you were playing  
5 an active role in the management of the Irish companies,  
6 particularly JMSE but also to a certain extent the land  
7 opening companies, what do you say to that?

8 A. No, I had no hand, act or part in the land owning  
9 companies. As I say, in the latter part of 1988 I would  
10 have attended some board meetings, I think it is there on  
11 record, JMSE board meetings, purely to support the new  
12 management at the time, but there is absolutely nothing  
13 that has been shown to me that can --

1 459 Q. Well, what is your recollection, Mr. Murphy, do you  
15 remember --

16 A. I had no involvement whatsoever in the land owning  
17 companies until in or around 1990, in around March of 1990  
18 shortly after the fire at Poppintree.

1 460 Q. Yes. I just want to ask you this; a tremendous amount of  
20 documentation has been put into this Tribunal relating to  
21 the affairs of your companies, particularly the Irish  
22 companies, documentation which was made or originated in  
23 the years of 1988 or '89, you are aware of that and seen  
24 most of this documentation?

25 A. I am, yes.

2 461 Q. Has - other than showing your attendance at board meetings,  
27 does any of this documentation refer to you personally at  
28 all?

29 A. No.

3 462 Q. I see. This documentation has been generated by Mr.  
31 McArdle, by Duffy Mangan and Butler and by other people  
32 associated with the company, some relating to the lands,

1 sale of the lands and so on. Can you say to your  
2 recollection, whether or not your name as an individual,  
3 figures anywhere in any of that documentation?

4 A. No, it does not.

463 Q. I see. I think you have already told the Chairman, Mr.  
6 Murphy, that you became actively involved in the operations  
7 on this side of the Irish sea when the arbitration  
8 proceedings arose because of the dispute about the value of  
9 the premises at Poppintree; isn't that right?

10 A. That's correct.

1 464 Q. And in fact you took over the management of the arbitration  
12 proceedings, didn't you, from your company's point of view?

13 A. I did.

1 465 Q. I see. And you showed a close interest in those  
15 proceedings until they were eventually settled two years  
16 later?

17 A. Correct, yes.

1 466 Q. I want, if I can, to refer you to a paragraph in the  
19 statement of evidence which was furnished to this Tribunal  
20 by the late Denis McArdle.

21 .

22 MS. DILLON: If Mr. Cooney gives us one moment we do have  
23 this available for circulation, but it is not available in  
24 the book.

25 .

26 MR. COONEY: Yes. Yes. (Document handed to witness).

27 .

28 .

2 467 Q. MR. COONEY: This is Section 71 in his statement, Mr.  
30 Murphy, as it is under the general heading of "Lands in  
31 North County Dublin", and in the sub heading is "Lajos and  
32 Helmdale to Bovale contracts, 19th December, 1989", and

1 then statement continues --

2 A. Sorry, what page please?

468 Q. This is page 12. I have marked it myself, but the first

4 paragraph under this section is paragraph 49, but I want

5 you to turn over, about four pages later on, to paragraph

6 71.

7 A. Yes.

469 Q. And under the general heading of the "Contract of sales to

9 Bovale" at paragraph 71, Mr. McArdle says in 70 he is

10 referring to the arbitration and then at 71: "Some days

11 later in June 1990 Mr. Joseph Murphy Snr. telephoned me to

12 say that his son, Joseph Junior, was becoming involved in

13 the matter and had consulted another solicitor, Mr.

14 Farry.

15 .

16 Mr. Murphy Snr. asked me to cooperate with his son and I

17 said I would do so. Subsequently over the course of time

18 I met Joseph Murphy Jnr. on a number of occasions, I am

19 satisfied that he and I established a very good rapport".

20 .

21 Then Mr. McArdle adds: "However, in June 1990 we were

22 strangers. Then I met him only once previously in mid-1988

23 when he accompanied his father to my office on the occasion

24 when the latter informed me that I was no longer to take

25 instruction from either Mr. Devine or Mr. Conroy".

26 .

27 Now broadly speaking, Mr. Murphy, does your recollection of

28 your involvement in the companies and your first connection

29 with the companies coincide with what Mr. McArdle is saying

30 there?

31 A. Yes, that's correct, what Mr. McArdle says there.

3 470 Q. Now, I think it is against that background - now I want to

1 ask you about the specific allegations which were made by  
2 Mr. Gogarty, you have already said, I think, to the  
3 Chairman on a number of occasions, that you never met Mr.  
4 Raphael Burke in your life; isn't that right?

5 A. No, I did not.

471 Q. Not at any time?

7 A. No, not at any time.

472 Q. You have never been in his house?

9 A. I have never been in his house.

1 473 Q. Mr. Gogarty said in support of his allegation against you,  
11 that you had attended a number of meetings in the offices  
12 at Santry prior to the visit to Mr. Burke's house, and he  
13 said at Volume 5 that you had been at such a meeting a  
14 couple of days before the visit to Mr. Burke's house, what  
15 do you say to that?

16 A. No, not in the offices in Santry at all during that period,  
17 and as I have outlined before, I have never met Michael  
18 Bailey until October in 1992.

1 474 Q. I see. I see. Now, I think that you first met Mr.  
20 Bailey, as you have told us, on the 18th of October of 1992  
21 just when the arbitration proceedings were settled; isn't  
22 that correct?

23 A. Yeah, it was over a two day period from memory now, I think  
24 it was the 19th and 20th, and while I would have seen Mr.  
25 Bailey on the 19th I think I was introduced to him on the  
26 20th.

2 475 Q. Yes, and then you met him for the second occasion in  
28 October, November of 1996' isn't that right?

29 A. That's correct.

3 476 Q. That was in the Burlington Hotel?

31 A. That's correct.

3 477 Q. Then am I correct in thinking that the one further direct

1 contact that you had with Mr. Bailey was when you spoke to  
2 him on the telephone in or about the 13th of June of 1997?

3 A. That's correct.

478 Q. So, is it the position then, Mr. Murphy, that from 1988  
5 down to the present time, you have had three direct  
6 contacts with Mr. Bailey, two of them in person and the  
7 other one by telephone?

8 A. That's correct. I think there was one other telephone  
9 call to arrange the actual meeting in the Burlington and  
10 that would have been it, yes.

1 479 Q. And that's the sum of your contact with Mr. Bailey?

12 A. That's correct.

1 480 Q. I see. Now, we know from the evidence that there was  
14 litigation going on between your company and Mr. Gogarty in  
15 1990, at the end of '89 up to the middle of 1990 which was  
16 settled and that related to the pension agreement; isn't  
17 that right?

18 A. That's correct.

1 481 Q. And then further litigation started in 1991 in relation to  
20 the P60 form; isn't that right?

21 A. That's correct.

2 482 Q. And that was, eventually came to an end about 1994; isn't  
23 that right?

24 A. Sometime around that, yeah.

2 483 Q. I see. Now, were you in anyway involved in the  
26 negotiation of Mr. Gogarty's pension?

27 A. No, I was not directly involved. I would have been kept  
28 informed by Mr. Oakley in London. I think it was Mr.  
29 Copsy who was dealing with it directly, with either Mr.  
30 Gogarty and then the latter stages his solicitor, Mr.  
31 Sheedy.

3 484 Q. Yes. But you had had two meetings with Mr. Gogarty, you

1 have told the Tribunal in February of 1992; isn't that

2 right?

3 A. I did, yes.

485 Q. That is on the 10th of February and on the 17th?

5 A. That's correct.

486 Q. And was the subject matter of Mr. Gogarty's remuneration

7 discussed on those occasions or his demands for further

8 income?

9 A. Yes. Not on the first meeting, on the second meeting I

10 think as I have said earlier, when I offered him an

11 indemnity for, with a double taxation, whatever he was

12 saying about the P60, he thumped the table and says "This

13 is not a P60 issue, it is a money issue. I want £400,000".

1 487 Q. How much money had the company already paid him by then,

15 directly or in benefit in kind?

16 A. I think on the 3rd of October if we look at the total

17 benefit paid out by the company, maybe not paid out,

18 because there was a consultancy stretching over five years,

19 I think the total value of that particular package was

20 £630,000, plus the benefit I think, I am not sure of the

21 exact capital figure that was put in, but certainly Mr.

22 Gogarty was, some money was put into Mr. Gogarty's account

23 in the 80s, that grew to 100 or 100 and something, so 630

24 plus that hundred over, 700,000 in total. It must be

25 remembered in this context, that at the time in 1989 I

26 think the turnover of JMSE was in or around 5 million

27 pounds, and to, this package that he was getting at the

28 time was well over 10 percent of the turnover the company,

29 in our opinion very, very generous package.

3 488 Q. Yes. All right. Now, he made these further demands of

31 you at the meeting in February of 1992; isn't that correct?

32 A. He did, yes.

489 Q. Were you aware that at that time he had sworn an affidavit  
2 in which he said that your father had promised him a  
3 million pounds as a retirement package?

4 A. I don't think I was, no.

490 Q. Yes. You know now, I think, that in support of the  
6 application for an injunction which he took in or about  
7 December of 1989 he made an affidavit in which he averted  
8 to that fact?

9 A. Yes, that may be the case, yes.

1 491 Q. Are you also aware in his affidavit of evidence to the  
11 Tribunal, he changed that figure from a million to  
12 £500,000?

13 A. I am aware there were two different figures mentioned in  
14 two different affidavits.

1 492 Q. I see. It seems from these facts and the conversations,  
16 that he was very dominated by thoughts of financial  
17 rewards; isn't that correct?

18 A. Yes, no doubt about it, he wanted more money from the --

1 493 Q. From the company?

20 A. Yes.

2 494 Q. I see. Now, I think that your relationship with him had  
22 taken a rather sharp dive in 1990 when he submitted a bill  
23 for expenses he said he incurred for work with AGSE as a  
24 consultant?

25 A. Yes, he submitted an invoice for in or around £50,000 which  
26 we considered not to be within his consultancy agreement.

27 I considered this to be a complete and utter try-on.

28 That's when relations broke down completely with Mr.

29 Gogarty.

3 495 Q. I think also at that time, Mr. Murphy, you may have laid  
31 down fairly strict conditions for the payment of ordinary  
32 expenses to him as well; isn't that right?



1 A. Yes.

496 Q. What were those continues do you recall?

3 A. I think from the documentation there, that he was charging  
4 so much a mile for travel on our behalf. I told him that  
5 wasn't part of his agreement. I think that phone calls,  
6 that he would have to say to whom and what and on what  
7 business, etc., just trying to tie him down.

497 Q. Well, do you think that he resented these matters or did he

9 show resentment in relation to these matters when you met  
10 him subsequently in the Berkley Court?

11 A. He did, he resented a lot of things, they might sound  
12 trivial now. One of the things he resented was the fact  
13 that he had to pay his own insurance on the car, he said it  
14 wouldn't have cost JMSE any more money to do it this way.  
15 As I have said previously, it may well have been the ESB or  
16 the other package, he said he wanted it paid abroad, he had  
17 loads of grievances, he was never happy, a man that you  
18 could never satisfy.

1 498 Q. Yes. I think there is a difference of recollection  
20 between you and Mr. Gogarty in relation to the meetings in  
21 the Berkley Court Hotel. He says there was one meeting,  
22 you say there were two meetings?

23 A. Yes, there were two meetings.

2 499 Q. I think he did agree in cross-examination that the first  
25 meeting ended with an agreement that your accountants, your  
26 respective accountants, Mr. Howley and Mr. Maher, would  
27 meet and see if they could iron out the problems?

28 A. That's correct.

2 500 Q. And you recall that happening?

30 A. I do.

3 501 Q. I see. And they were unable to come to any final  
32 agreement?

1 A. They were, they said that the matter would have to be  
2 sorted out between myself and Mr. Gogarty.

3 502 Q. Yes. And then you met him on that second occasion, was  
4 the second meeting more acrimonious in your recollection?

5 A. Yes, it was very acrimonious, because he let me know  
6 straightaway that when I brought up the P60 issue about the  
7 indemnity and we would have a look at his costs, he  
8 straight away said, he would - he banged the table and said  
9 "this is not a P60 issue, this an issue about money. I  
10 want £400,000".

1 503 Q. Right. Now, I think following that meeting, you had no  
12 further contact with him except for the telephone  
13 conversation which occurred two years later?

14 A. That's correct.

1 504 Q. I see. When did you first learn of the allegations which  
16 we now know he has made against you about attempting to  
17 bribe the Government Minister?

18 A. In or around the March of '96.

1 505 Q. I see. Had you any advance notice that Mr. Gogarty was  
20 making these allegations either generally or specifically  
21 to a particular journalist employed by a particular  
22 newspaper?

23 A. No.

2 506 Q. So that this article in the Sunday Business Post of the  
25 31st of March was published without any prior warning or  
26 notice or expectation from you?

27 A. That's correct.

2 507 Q. I see. And can you recall how you first learned about  
29 this article, Mr. Murphy? Were you in England or were you  
30 in Ireland at the time it was published?

31 A. I think I was in England at the time it was published.

3 508 Q. Yes. How did you receive notice of it? Are you able to

1 buy the Sunday Business Post in London or was it sent?

2 A. I think we were able to buy, I don't think it can be got

3 now on a Sunday. Certainly if I didn't see it on the

4 Sunday, Frank Reynolds would have drawn my attention to it

5 on the Monday, faxed a copy or whatever.

509 Q. Yes, and that article alleged not merely, were you able to

7 identify your company and yourself personally from that

8 article even though you weren't named?

9 A. Yes.

1 510 Q. I see. And how was that, Mr. Murphy?

11 A. Mr. Connolly had had a meeting, I think the previous week

12 to the article.

1 511 Q. Had Mr. Reynolds told you about that meeting before the

14 article was published?

15 A. He did.

1 512 Q. So you were in fact, knew there was a possibility of such

17 an article coming then, did you?

18 A. He didn't actually, I don't think Mr. Connolly was specific

19 that he was going to write an article.

2 513 Q. As close to the date of the meeting?

21 A. Yes.

2 514 Q. Yes, I see. I think the same issue of the newspaper also

23 carried an article quite separately, and obviously

24 referring to your company in the fact that he alleged it

25 was used to supply steel for the erection of the nuclear

26 power plant at Sellafield?

27 A. Yeah. Well this, this was a matter which did rankle with

28 me, because Frank Reynolds had pointed out to Mr. Connolly

29 that no Sellafield steel was fabricated in Santry and no

30 Sellafield steel was on the OPW premises, but he continued

31 to write that article.

3 515 Q. Yes. I see. Now, there was one further article

1 published on the same lines, I think, by the Sunday  
2 Business Post a week later on the 7th of April; isn't that  
3 right?

4 A. That's correct.

516 Q. And again these articles have been opened to the Tribunal  
6 and have been read a number of times, so I won't refer to  
7 them specifically, but again with the change of some  
8 significant detail the main thrust of the article was the  
9 same, namely there was a corrupt payment involving you to  
10 Mr. Ray Burke; isn't that right?

11 A. That's correct.

1 517 Q. And these articles also contained allegations that  
13 somebody, a director of JMSE had engaged in acts of  
14 vandalism towards Mr. Gogarty's premises and himself  
15 personally; isn't that right?

16 A. That's correct.

1 518 Q. Did you appreciate at that time that these allegations were  
18 being directed against you personally?

19 A. Yes, I suspected they were being directed against me, yes.

2 519 Q. Now, what did you do in response to the publication of  
21 these articles? Did you take legal advice?

22 A. I did, yes.

2 520 Q. How soon after the publication of the last of these  
24 articles on the 7th of April did you consult solicitors  
25 about this?

26 A. It would have been pretty shortly afterwards.

2 521 Q. I see. I think that you did receive legal advice on what  
28 could or could not be done as a result of particular  
29 articles and forms in which they appeared; isn't that  
30 right?

31 A. That's correct.

3 522 Q. I see. I think the solicitors whom you consulted are your

1 present solicitors, Fitzsimmons Redmond and Company?

2 A. That's correct.

523 Q. They were already on record for you in relation to

4 proceedings Mr. Gogarty issued against you arising out of

5 the telephone call?

6 A. That's correct, they were recommended to me by a London

7 firm of solicitors.

524 Q. Yes. In effect Mr. Gogarty, in relation to this telephone

9 call had actually sued you in the High Court; isn't that

10 right?

11 A. Yes.

1 525 Q. I see. So when this matter arose when the two articles

13 were published you consulted Messrs. Fitzsimmons Redmond?

14 A. I did.

1 526 Q. If you had received advice at that stage, Mr. Murphy, to

16 issue proceedings against the Sunday Business Post and the

17 journalist who wrote them would you have done so?

18 A. I would of course, yes.

1 527 Q. But in fact you did not issue proceedings at that stage;

20 isn't that correct?

21 A. That's correct.

2 528 Q. I see. Now, I think later on in the year, in that same

23 year, in 1996, you met Mr. Bailey for the second time;

24 isn't that right?

25 A. I did, yes.

2 529 Q. I see. Have you heard or are you familiar with the

27 evidence Mr. Bailey has given to this Tribunal?

28 A. I think I probably have read most of it, nearly all of it

29 in the transcripts.

3 530 Q. And we know, I think, from that evidence, that Mr. Bailey

31 and Mr. Gogarty were in contact in 1996; isn't that right?

32 A. Yes.

531 Q. I think even Mr. Gogarty agrees, although he denies that  
2 there was any contact between them between the year 1990  
3 and 1996, that's another matter to be dealt with at another  
4 time, certainly the evidence from both of them has been  
5 they were in contact with each other sometime during 1996;  
6 isn't that right?

7 A. They obviously were.

532 Q. Yes, and sometime during those contacts Mr. Gogarty gave to  
9 Mr. Bailey his handwritten list with the names and  
10 addresses of your solicitors, and also I think of you and  
11 your father, and your telephones numbers; isn't that right?

12 A. Yes.

1 533 Q. So when Mr. Bailey contacted you through Mr. Reynolds to  
14 arrange this meeting in the Burlington Hotel, it is clear  
15 from the evidence already before the Tribunal that he and  
16 Mr. Gogarty had been in contact with one another; isn't  
17 that right?

18 A. Yes.

1 534 Q. And I think the purpose of this meeting was to see if some  
20 rapprochement could be reached between you and your family  
21 and Mr. Gogarty and bring an end to this trouble that had  
22 existed between you' is that right?

23 A. That's correct, Mr. Bailey said Mr. Gogarty was anxious to  
24 meet my father more than myself.

2 535 Q. Yes?

26 A. At the time.

2 536 Q. Now, were you aware at that stage, Mr. Murphy, that Mr.  
28 Gogarty was the person who was behind the allegations which  
29 were being falsely published about you in the Sunday  
30 Business Post?

31 A. I was.

3 537 Q. Yes. None the less you were prepared to meet him, were

1     you?

2     A.  Yes.

538 Q.  Why was that?

4     A.  Well if there was any, as Michael Bailey had said to me,

5     while he was arranging the meeting that it could be, he

6     thinks that things could be sorted with Mr. Gogarty with a

7     handshake or whatever else, if there was the slightest

8     possibility that we could get Mr. Gogarty off our back with

9     a handshake, then I was willing to give it a try.

1  539 Q.  And then as arranged you met, you went to the Burlington

11     Hotel, we know Mr. Gogarty doesn't show up?

12    A.  That's right, yes.

1  540 Q.  And you spend about less than an hour, perhaps three

14     quarters of an hour with Mr. Bailey waiting for Mr. Gogarty

15     to appear; is that right?

16    A.  That's correct.

1  541 Q.  I see.  Was Mr. Bailey already present in the hotel when

18     you arrived?

19    A.  He was, yeah.

2  542 Q.  Now, you were asked a considerable number of questions

21     about this topic, I think, by Ms. Dillon, who was leading

22     you in your evidence on this particular topic.  What was

23     your attitude towards Mr. Bailey generally when you went to

24     meet him on this occasion?

25    A.  Well, it must be remembered the purpose of the meeting was

26     really to meet Mr. Gogarty, not Mr. Bailey.  I think I

27     would have been guarded towards Mr. Bailey, I had only met

28     him on one previous occasion, this was the matter of the

29     arbitration, and as I have given evidence here before, I

30     thought that the amount of money he was seeking in

31     compensation for the damage to Poppintree House was totally

32     overstated, and this had led to, obviously the long

1 protracted arbitration, so I was very guarded with Mr.  
2 Bailey and I did not know at that time his relationship  
3 with either Mr. Burke or Mr. Gogarty.

543 Q. But were you aware at that time that it was being alleged  
5 that he too had been a participant in this alleged attempt  
6 to bribe Mr. Burke?

7 A. Yes.

544 Q. I see. And again what was your reaction or how did you  
9 react to that piece of news at the time you were arranging  
10 to meet Mr. Gogarty with Mr. Bailey in the Burlington  
11 Hotel?

12 A. As I say, I would have been very guarded. I did not know  
13 the relationship between Mr. Gogarty and Mr. Bailey or Mr.  
14 Bailey and Mr. Burke.

1 545 Q. I see. Now, as we know Mr. Gogarty didn't appear for that  
16 meeting, although my recollection is that he did tell the  
17 Tribunal that he knew about the meeting but decided not to  
18 attend it?

19 A. That may be the case.

2 546 Q. And that meeting came to nothing?

21 A. No.

2 547 Q. I see. Now, if we move into 1997, Mr. Murphy, I think  
23 that a further article, a third article was published by  
24 the Sunday Business Post on the 21st of May of 1997; isn't  
25 that right?

26 A. That's correct.

2 548 Q. And what was the significant event which was occurring  
28 nationally in or about the time of the publications of this  
29 article?

30 A. I think there was a lead up to a general election.

3 549 Q. I see. And again was this the first time that these  
32 allegations had resurfaced since they were published 13



1 months beforehand?

2 A. Yes, as far as I was aware, yes.

550 Q. Had it been picked up by another newspapers at that stage?

4 A. I think so, yes.

551 Q. In other words had much greater and wider currency been

6 given to these allegations now in the national media than

7 there had been in 1996?

8 A. That's correct.

552 Q. I see. Again although you were working and living mainly

10 in England, were these publications brought to your

11 attention?

12 A. Yes, they would have been, yes.

1 553 Q. I see. Now, a lot of questions were asked about you, a

14 lot of questions were asked from you, Mr. Murphy,

15 concerning the inquiries which you made in or about this

16 time. First of all, what was your attitude towards these

17 allegations both when they were published first in the

18 beginning of 1996 and then when they were repeated 13

19 months later in 1997?

20 A. I knew them to be complete and utter lies. The allegation

21 being made was that I personally went to Mr. Burke's house

22 and personally handed over money as a bribe for a planning

23 favour, and I knew this to be completely untrue.

2 554 Q. Yes, and was that the bedrock, as it were, of your attitude

25 towards these allegations and the manner which they

26 affected you personally and your company and the company's

27 affairs?

28 A. That's correct, yes. It was one piece of the three pronged

29 threat that Mr. Gogarty made in the Berkley Court.

3 555 Q. And that's how you viewed it at that time?

31 A. Exactly.

3 556 Q. I see. Now, as the stories got greater currency as poling

1 day, which was on the 6th of June of 1997 approached, did

2 you make further inquiries about these allegations?

3 A. Yes, I think after the article that you are speaking about

4 I made a phone call to Mr. Roger Copsy.

557 Q. And I think you also spoke to Mr. Reynolds?

6 A. I did, yes.

558 Q. Now, at this stage Mr. Reynolds was the Managing Director

8 of the company and had been since about 1989; is that

9 correct?

10 A. That's correct, yes.

1 559 Q. Before that time what had Mr. Reynolds' position in the

12 company been, and at the time of these alleged payments to

13 Mr. Burke?

14 A. I think that Mr. Reynolds was a kind of a contracts plant

15 director, I think he had been made a director sometime in

16 1988, but he would have been toing and froing between the

17 contracts and the plant.

1 560 Q. Yes, I think Mr. Reynolds had been with the company a long

19 time but worked his way up to a senior management position?

20 A. That's right, he started off as a mechanic in the company,

21 yes.

2 561 Q. But who had been his boss and who was the person who would

23 have supervised and promoted him over these years up to

24 that time?

25 A. Mr. Gogarty.

2 562 Q. Mr. Gogarty. I see. So would it be fair to say that

27 during the course of his career and up to that time, Mr.

28 Reynolds had been fairly largely under the influence and

29 supervision of Mr. Gogarty?

30 A. That's correct, yes.

3 563 Q. Now, I think, if I can just divert for a moment, I think

32 evidence of that is we know about the dispute about the

1 accounts; we know that Gabriel Grehan and Frank Reynolds  
2 took one side on the accuracy of the accounts and Mr.  
3 Copsey on the other side; isn't that correct?

4 A. That's correct.

564 Q. I think we know also from Mr. Grehan's evidence, is that  
6 his objections or exceptions to these accounts were  
7 prompted largely by Mr. Gogarty?

8 A. That's correct.

565 Q. Would that also have been true in your experience, at that  
10 time, in relation to Mr. Reynolds's objection and hostility  
11 towards the accounts?

12 A. Yes, I think that Mr. Gogarty was behind that letter that  
13 they put their name to.

1 566 Q. We know that Mr. Reynolds --

15 .

16 MS. DILLON: Sorry for interrupting My Friend. I don't  
17 wish to interrupt. I understood this witness' evidence to  
18 be that up to 1990 he had no involvement in the company.  
19 He is now being asked a series of question abouts the  
20 influence of Mr. Gogarty on Mr. Reynolds during a period in  
21 , from December of 1988 through 1989, and perhaps Mr.  
22 Cooney would simply lay the foundation for this witness'  
23 knowledge of these events in the light of this witness'  
24 assertion that apart from attending meetings to support Mr.  
25 Gogarty, he had nothing to do with the running of the  
26 company.

27 .

2 567 Q. MR. COONEY: Yes, I think that's a fair point,  
29 Mr. Chairman, but these are all matters which have been  
30 brought out in great detail by the Tribunal since that  
31 time. What I am referring, and I should have made this  
32 clear, is the knowledge that Mr. Murphy has acquired since

1 that time and since the Tribunal has started, these are all  
2 details which are being brought out now.

3 .

4 I am asking him to draw conclusions from that and from the  
5 evidence which has been given as to the relationship  
6 between Mr. Gogarty, Mr. Reynolds and Mr. Grehan at that  
7 time. I think that's fair enough.

8 .

9 Now, Mr. Reynolds will be giving his own evidence here, Mr.  
10 Murphy, as you know, but I suggest to you that it has  
11 clearly emerged from the evidence already given at this  
12 Tribunal, that at that time but not subsequently Mr.  
13 Reynolds was considerably under the influence of Mr.  
14 Gogarty; isn't that correct?

15 A. That's correct,.

1 568 Q. Yes, as was Mr. Grehan, as he said in his own evidence?

17 A. Yes.

1 569 Q. I see. Now, he also - we also - you have told us that you  
19 knew that these allegations were untrue and that was the  
20 foundation of your approach towards the allegations; isn't  
21 that right?

22 A. That's correct.

2 570 Q. But when they gained wider currency in the election period  
24 of 1997 you conducted some more investigations and you  
25 spoke to Mr. Reynolds, you spoke to Mr. Copey you have  
26 already told us about, and who else may you have spoken to  
27 about that time?

28 A. It was, it would just have been my father, Mr. Reynolds and  
29 Mr. Copey.

3 571 Q. Yes. And had you any certain or positive or definite  
31 information at that stage about the detail of this alleged  
32 bribe, for instance was there any certainty or was there

1 any exactitude given concerning the amount of money which  
2 Mr. Burke was alleged to have received from the company at  
3 that time?

4 A. That's right, in the articles I think there was a figure of  
5 40 was mentioned, it may have been 60 or 80 as well, but  
6 certainly 40 was mentioned.

572 Q. I think sometimes it was said to be cash, other times it  
8 was said to be a cheque, and yet again said to be a  
9 combination of the two' isn't that right?

10 A. That's correct.

1 573 Q. And again your state of knowledge would be the facts, the  
12 alleged facts contained in these articles; isn't that  
13 right?

14 A. That's correct.

1 574 Q. I see. Now, and I think that the figure of 30,000 wasn't  
16 mentioned until quite late on; isn't that correct?

17 A. That's correct, yes.

1 575 Q. About the 13th of July of 1997; isn't that correct?

19 A. That may be the case, yes.

2 576 Q. So I take it at that stage neither you nor anybody else who  
21 would be checking had that particular figure to look for;  
22 is that correct?

23 A. That's correct.

2 577 Q. I see. Now, you have been asked, and I am going to come  
25 back and deal with this in more detail, about the meetings  
26 which you had with Mr. Ahern, but certainly in the last few  
27 days these meetings have figured quite largely in the  
28 affairs of this Tribunal. We know that you had a meeting  
29 with him on the 26th of June and then a week later you had  
30 a meeting with him on the 1st of February; isn't that  
31 right?

32 A. 1st of July, yes.

578 Q. 1st of July, I beg your pardon. I am going to come back

2 in some detail, but you gave him certain information at

3 those meetings; isn't that right?

4 A. That's correct.

579 Q. Was that information that you gave him complete as you knew

6 it at that time?

7 A. It was.

580 Q. I see. Did your store of information increase subsequent

9 to those meetings?

10 A. It did, yes.

1 581 Q. And did you subsequently give him fuller information when

12 you spoke to him on the telephone on the 10th of September?

13 A. I did.

1 582 Q. Yes. Now, it has been suggested, and again I just want to

15 touch on this for the moment, then I will come back to it;

16 it has been suggested to you in very lurid detail by Mr.

17 Ahern's counsel, that you somehow or another mislead Mr.

18 Ahern or lied to him, during the course of these two

19 meetings and you concealed from Mr. Ahern on these

20 occasions information which you then possessed?

21 A. No, that's completely untrue. I gave Mr. Ahern the

22 information that I had at that time in good faith.

2 583 Q. I see. Now, I just want to move on now if I can, to the

24 events which occurred after your meeting with Mr. Ahern on

25 the 1st of July. You have told us that you went to Mr.

26 Copsy that afternoon?

27 A. That's correct.

2 584 Q. And you told us that the gist of the conversation that you

29 had with him was that he told you that he did remember

30 something about a political donation having been made 7 or

31 8 years beforehand; is that right?

32 A. I think the words he used were "Some sort of a political

1 contribution", was the words he used.

585 Q. I see. Now, this was a matter which was still exercising  
3 your mind; isn't that correct, Mr. Murphy?

4 A. That's correct, yes.

586 Q. And it was something which you were concerned about and  
6 upon which you had already taken legal advice; isn't that  
7 correct?

8 A. That's correct.

587 Q. And you acted on that legal advice?

10 A. Yes.

1 588 Q. But the matter now had gained further and wider currency  
12 because of the general election which had been held  
13 sometime before hand, and because of the formation of the  
14 new government which at that time would have included Mr.  
15 Burke in its members; isn't that right?

16 A. That's correct, yes.

1 589 Q. So was the matter now back more immediately in your mind  
18 than it had been in the early part of '97?

19 A. It was after the formation of the government it blew up  
20 again.

2 590 Q. Now, again just because this is a matter which perhaps  
22 hasn't been dwelt upon as extensively as it perhaps should  
23 have been, I want you to tell the Tribunal what sort of  
24 context were you working from and conducting these  
25 inquiries at that time. First of all, you were managing  
26 director in the United Kingdom operations of the Murphy  
27 Group of companies; isn't that right?

28 A. That's correct.

2 591 Q. How many employees were employed in the United Kingdom at  
30 that time?

31 A. In or around 500.

3 592 Q. I see. They were employed in different companies in

1 different locations?

2 A. Throughout the country, yes.

593 Q. And you were directly responsible for the management and  
4 operation of the work that these 500 employees were  
5 engaged; isn't that right?

6 A. Yes, as Managing Director.

594 Q. You were living in London at that time' isn't that right?

8 A. I was.

595 Q. I think you were, are relatively recently married; isn't  
10 that right?

11 A. That's correct, three or four years maybe.

1 596 Q. And you had, two children at that stage, was it?

13 A. Two, yes.

1 597 Q. Two. I see. At the same time you were also responsible  
15 in an overall fashion for the operation of the Irish  
16 companies; isn't that right?

17 A. Yes, I would have been Chairman, keeping in frequent  
18 contact.

1 598 Q. Your overall concern was to see that these companies were  
20 properly staffed, were operating profitably and running  
21 smoothly; isn't that right?

22 A. That's correct.

2 599 Q. And at the same time you are a newly married man with two  
24 new children in the house; isn't that right?

25 A. That's correct.

2 600 Q. And you also at this stage then had to conduct against that  
27 background and those demands upon your time these inquiries  
28 into these allegations which were being made in the  
29 newspapers?

30 A. That's correct, yes.

3 601 Q. I see. Now, following your meeting and at that time had  
32 you also sought actively the assistance of your current



1 solicitors, Messrs. Fitzsimons Redmond & Company, to help  
2 you in these investigations?

3 A. Yes, I had, yes.

602 Q. Had you asked them to conduct such inquiries as were open  
5 to them to make at that time?

6 A. Yes, I had instructed them to do so.

603 Q. Did you remain in fairly frequent contact and liaison with  
8 that firm of solicitors?

9 A. Yes, I did. I would have called in to them on occasions I  
10 would have been in Ireland and on frequent telephone  
11 conversations with them.

1 604 Q. I see. I think it was also a matter that you required Mr.  
13 Reynolds to interest himself in because he was here in  
14 Ireland?

15 A. He was the hands-on man in Ireland.

1 605 Q. I see. Now, taking the first month in July, did anything  
17 of any significance transpire during that month, can you  
18 recall, other than the conversation that you had with Mr.  
19 Copsey?

20 A. Yes, I think that we had been trying to make contact with  
21 Denis McArdle, I think we did actually make contact, when I  
22 say "we", myself and Mr. Fitzsimons, my solicitor. Due to  
23 personal tragic circumstances - I think I asked Mr. McArdle  
24 if he was reading the paper, he said "no", he didn't really  
25 know what I was talking about, he said that he had some  
26 personal problems.

2 606 Q. I think at this time it is a fact that Mr. McArdle's wife  
28 was very seriously ill?

29 A. She was.

3 607 Q. He was nursing her at home?

31 A. That's correct.

3 608 Q. And the result of this, unfortunately Mrs. McArdle died as

1 a result of that illness which she had these, two or three

2 years ago?

3 A. That's correct.

609 Q. And equally regrettably Mr. McArdle himself died in August

5 of this year?

6 A. That's correct.

610 Q. This affected his availability to you in July, August and

8 September of 1997; isn't that correct?

9 A. Yeah, his availability, plus trying to get the documents

10 from him.

1 611 Q. Yes. I think at that time that Mr. McArdle was attending

12 about half a day at his office because of his other very

13 pressing commitments?

14 A. Something like that, yes.

1 612 Q. But wasn't that, and I am not blaming and you are not

16 blaming Mr. McArdle, life was exceedingly difficult for

17 him, and it was difficult for him to unearth the

18 information that you were then looking for?

19 A. That's correct, yes.

2 613 Q. I see. At the same time you were in frequent consultation

21 with your solicitor, Mr. Fitzsimons; isn't that right?

22 A. Yes.

2 614 Q. And I think that he also was in contact with Mr. McArdle

24 endeavoring to obtain the papers?

25 A. He was, yes.

2 615 Q. This is because Mr. McArdle of course was the solicitor

27 acting for the Irish Group of Murphy companies at that time

28 that these lands were sold?

29 A. That's correct.

3 616 Q. And at that time that you were alleged to have paid a bribe

31 to Mr. Burke; isn't that right?

32 A. That's correct, yes.

617 Q. And did you consult him in the hope or expectation that the  
2 papers in his possession might reveal some information in  
3 these allegations?

4 A. Yes.

618 Q. I see. And I think that on the 13th of July for the first  
6 time the newspapers, one newspaper had identified £30,000,  
7 sorry I will put it another way, had identified the sum  
8 which was paid to Mr. Burke as being £30,000 and not 40,  
9 not 60 or not 80; isn't that right?

10 A. That's correct, yes.

1 619 Q. So did that help to focus your inquiries, as it were?

12 A. Yes.

1 620 Q. And that was 13 days after you had last spoken to Mr.  
14 Ahern; is that correct?

15 A. That's correct, yes.

1 621 Q. Now, at that stage, and bearing in mind the republication  
17 of these matters, particularly in the Sunday Business Post,  
18 by Mr. Frank Connolly, did you again take advice in  
19 relation to these articles and their potential defamatory  
20 content?

21 A. I did. I think I met with Mr. Fitzsimons and Senior  
22 Counsel and we acted on them.

2 622 Q. And as a result of that were proceedings instituted against  
24 the Sunday Business Post for defamation?

25 A. That's correct, I think --

2 623 Q. And against Mr. Gogarty?

27 A. I think there was three sets of proceedings issued in or  
28 around that time.

2 624 Q. I think these proceeding are current and you intend to  
30 pursue these to the end?

31 A. I intend to pursue them all the way, yes.

3 625 Q. I see. Now, at that stage we can take it that you were

1 concerned with protecting your personal reputation and the  
2 reputation of your companies; is that correct?

3 A. Yes, that was - my priority was my family and protecting my  
4 companies and my own reputation, yes.

626 Q. But at the same time these inquiries were being conducted  
6 sometimes by you but sometimes by other people in your  
7 employment?

8 A. That's correct, yes.

627 Q. Now, I think that on the 11th of August Mr. McArdle  
10 furnished to your current solicitor, Fitzsimmons Redmond &  
11 Company, some of the document in question relating to the  
12 sale of the lands to Bovale, and also copies of the  
13 documents which were generated during the arbitration  
14 proceeding; isn't that right?

15 A. That's correct.

1 628 Q. Yes. Now, I think were these the first tranche of  
17 documents which your solicitors had received from Mr.  
18 McArdle?

19 A. On the 11 I think, yes.

2 629 Q. Had you also been in contact personally yourself with Mr.  
21 McArdle in the days leading up to this to endeavour to see  
22 if he could give you any information?

23 A. I had indeed.

2 630 Q. On the 12th of August, Mr. Reynolds will give this, Mr.  
25 Reynolds attended Mr. Fitzsimons' office and gave to Mr.  
26 Fitzsimons eight different documents; isn't that correct?

27 A. That's correct.

2 631 Q. And I think these have already, we have given a list of  
29 these to, given copies to the Tribunal. The first was a  
30 schedule of the lands and buildings, and I think this is a  
31 schedule which had been prepared by Mr. Gogarty in or about  
32 1987; isn't that correct?

1 A. Yes, I think so.

632 Q. Again a lot of these documents have already been furnished,  
3 have been adduced in evidence. Then there was a letter of  
4 the 28th of March of 1989 from Duffy Mangan and Butler,  
5 containing the valuation. Again that has been referred to  
6 frequently; isn't that right?

7 A. That's correct.

633 Q. Then there was a bank statement from AIB Talbot Street  
9 covering JMSE No. 2 Account for the 7th and 8th of June of  
10 1989; isn't that correct?

11 A. That's correct, yes.

1 634 Q. Then there was another bank statement from Talbot Street,  
13 from the same branch, covering the 21st of June and 22nd of  
14 June; isn't that right?

15 A. That's correct.

1 635 Q. Then there was the cheque stub, two cheque stubs for  
17 cheques 546 and 547?

18 A. That's correct.

1 636 Q. And they had a date on it of the 8th of June of 1989?

20 A. That's correct.

2 637 Q. And then there was an extract from the cheques payment  
22 ledger from the 1st of May to the 30th of June of 1989?

23 A. That's correct.

2 638 Q. And then finally there was a letter of the 14th of June of  
25 1989 from Mr. McArdle and Mr. Tim O'Keeffe; isn't that  
26 right?

27 A. That's correct.

2 639 Q. In which Mr. Tim O'Keeffe - now, I just want to refer to  
29 that letter. It has been referred to frequently in the  
30 course of these proceedings, this is part of the bundle of  
31 documents, Mr. Chairman, introduced by me in the  
32 cross-examination of Mr. Gogarty, and they start off with

00110

1 the attendances of Mr. McArdle on Mr. Copsey on the 8th of

2 June. Do you have a copy of that letter?

3 A. No.

4 .

5 MS. DILLON: The witness has the bundle of documents that

6 Mr. Cooney asked us to circulate.

7 .

8 MR. COONEY: You have it in the black book.

9 .

10 MS. DILLON: He should have it. If Mr. Cooney could just

11 indicate where in the black book the document is?

12 .

13 .

1 640 Q. MR. COONEY: No tab on these, but it is the second last

15 tab from the back, I think.

16 A. 29th of July of 1987?

17 .

18 MR. COONEY: 14th of June of 1987. Yes, I can't see a

19 number.

20 .

21 CHAIRMAN: 1989.

22 .

23 MR. COONEY: 1989, I beg your pardon.

24 .

25 MS. DILLON: These are the exact bundle of documents Mr.

26 Cooney's solicitor gave us yesterday. They haven't been

27 paginated, and I wonder is the letter of the 4th of June of

28 1989?

29 .

3 641 Q. MR. COONEY: The 14th of June of 1989.

31 A. I have that.

3 642 Q. It is a two line letter?

1 A. Yes.

643 Q. You see: "Dear Mr. O'Keeffe, on the instruction of Mr.

3 Roger Copsey I enclose herewith a cheque for £30,000 which

4 I have endorsed in favour of JMSE"?

5 A. Yes.

644 Q. Now, is that the letter that Mr. Reynolds was referring

7 to? Is that the letter, a copy of which Mr. Reynolds

8 brought in to Mr. Fitzsimons on the 12th of August?

9 A. 12th or 14th of August, in around that period.

1 645 Q. I see. I think that as a result of receiving that letter

11 Mr. Fitzsimons then wrote to Mr. McArdle, isn't that right,

12 on the 13th of August, two days later?

13 A. Yes.

1 646 Q. Or a day later. Again if you turn over two pages you will

15 see a copy of that letter. I want to read it out to you.

16 .

17 "Re: Joseph Murphy Structural Engineering Limited". Dated

18 the 13th of August, and it says: "Dear Denis, I refer to

19 the above matter and thank you for the booklets furnished

20 which have been copied by us and returned to you". There

21 your solicitor is referring to the Bovale documents and

22 arbitration documents which he had received a few days

23 beforehand; isn't that right?

24 A. That's correct.

2 647 Q. And he was returning the original to Mr. McArdle; isn't

26 that correct?

27 A. That's correct.

2 648 Q. "I have received various papers from Frank Reynolds, and

29 among the same is a letter from you to Timothy O'Keeffe,

30 dated the 14th of June of 1989. Copy enclosed for your

31 attention. I would be very much obliged if you could shed

32 some light in connection with the cheque for £30,000 which

1 you enclosed therewith endorsed in favour of JMSE".

2 .

3 Now, here we have your solicitor asking on the 13th of

4 August of 1997 for some information from Mr. McArdle about

5 this cheque for £30,000 which was referred to in Mr.

6 McArdle's letter of June; isn't that correct?

7 A. That's correct, yes.

649 Q. And then the letter continues: "We have no information in

9 this regard and it may be that you have other documentation

10 on file relating to the same. Could you tell us who the

11 payee was and why it was sent?" Isn't that right?

12 A. Correct.

1 650 Q. "As regards the contract for sale, dated the 19th of

14 December of 1989, it would appear that an Anthony Kenny

15 signed the contract as vendor on behalf of Lajos Holding

16 Limited, as witnessed by ourselves. This is the first time

17 I have come across Mr. Kenny's name and would be obliged if

18 you would advise me in what capacity Mr. Kenny signed on

19 behalf of Lajos. I would be very much obliged for your

20 assistance". Isn't that correct?

21 A. Yes.

2 651 Q. Now, Mr. Fitzsimons had seen this letter of the 14th of

23 June from Mr. O'Keeffe for the first time, had been brought

24 in to him by Mr. Reynolds, and he was now asking for some

25 explanation in relation to the cheque for £30,000 which was

26 referred to in this; isn't that right?

27 A. That's correct.

2 652 Q. I see. Now, at that stage, Mr. Murphy, was the

29 information beginning to emerge --

30 A. Yes.

3 653 Q. -- as to what had happened in June of 1989?

32 A. Yes.



654 Q. And that was one of the crucial pieces of new information

2 to emerge; is that correct?

3 A. Yes, it was, yes.

655 Q. Now, as a result of that were further inquiries made and

5 were further documents obtained from Mr. McArdle?

6 A. They were at a later stage, yes.

656 Q. And was it possible then to put together all of this

8 information, which included the attendance of Mr. McArdle

9 on Mr. Copsey, the correspondence from Mr. McArdle to Mr.

10 Copsey and Mr. O'Keeffe in which Mr. Gogarty is referred

11 to, the bank statements and the cheque stubs?

12 A. That's correct, we pieced it all together in around that

13 period, yes.

1 657 Q. The final brick, as I say, in that edifice, was that the

15 cheque for £10,000 which we know now had been given to Mr.

16 Burke, was made out to cash but given to him and was clear

17 in his accounts and was shown in the JMSE bank accounts as

18 being debited sometime around the 22nd of June?

19 A. That would be part of piecing it together, yes.

2 658 Q. And was it from those documents and those attendances of

21 Mr. McArdle it was now established that there was a £30,000

22 paid to Mr. Burke, but that the method of payment was

23 £20,000 in cash and £10,000 in a cheque made out to cash?

24 A. Yes.

2 659 Q. I see. Now, I want to turn back, if I may, to the

26 statement made by Mr. McArdle, again this is a matter which

27 was raised during the various examinations of you. Now Mr.

28 McArdle again, both Ms. Dillon and Mr. Mohan have opened to

29 you the attendances which Mr. McArdle took on the, well he

30 took one and his secretary took the second on Mr. Copsey on

31 the 8th of June, and it is well-known to the Tribunal but

32 it is headed, the first one is headed the "8th of June" - I

1 will come to his statement in a moment, Mr. Murphy. Have

2 you got the attendance, you have?

3 A. No.

660 Q. It is the written attendance in this document here headed

5 "R Copsey"?

6 A. Is it in the black booklet?

661 Q. I am not sure. No, it is not in this. This had already

8 been given to the Tribunal?

9 A. Yeah, I think I know it.

1 662 Q. All right. We know in any event that that records -

11 (document handed to witness) - Mr. McArdle, or it shows Mr.

12 McArdle recording a request for Mr. Copsey, that's "£30,000

13 wanted today, if possible. £10,000 cheque and £20,000

14 cash"?

15 A. Correct.

1 663 Q. And then "June the 15th election contribution".

17 A. Yes.

1 664 Q. And then: "I told him I could not get cash but it would be

19 in the form of a bank draft". Isn't that right?

20 A. That's correct.

2 665 Q. I want you to turn now to Mr. McArdle's statement, if you

22 will please. I want you to look at paragraph 30 of

23 that. Here Mr. McArdle under the general heading of

24 "£30,000 - 8th of June of 1989" says as follows: "On the

25 8th of June of 1989 I received a telephone call from Mr.

26 Copsey. He stated he required £30,000 that day. If

27 possible he required a cheque for £10,000 and £20,000 in

28 cash. Mr. Copsey said that the money was required in

29 connection with the forthcoming General Election of the

30 15th of June of 1989, and the form of words I used to note

31 this was 'June the 15th - election - contribution?' I told

32 Mr. Copsey I could not get cash but the money would be in

1 the form of a bank draft. I recall the conversation.  
2 Mr. Copsey said he wanted £30,000 that day, a cheque for  
3 £10,000 and £20,000 in cash. There was a General Election  
4 taking place at the time, I noted this conversation as  
5 stated above. Mr. Copsey said" and then he quotes; "I  
6 think Jim", that's Gogarty, "(wants to make a political  
7 contribution) because he used the words 'I think' I put  
8 down the question mark.

9 .

10 If Mr. Copsey had said 'Jim wants to make a political  
11 contribution' I would not have done so. Mr. Copsey did  
12 not expand further or volunteer any information where the  
13 money was going and I did not ask him. I assumed it was a  
14 donation to one of the political parties.

15 .

16 I told Mr. Copsey I could not get cash but would obtain a  
17 bank draft. The funds which belonged to the client were on  
18 deposit in the ICC, and I was not prepared to put a member  
19 of my staff, probably a young lady to the risk of going to  
20 the office of ICC in Harcourt Street and obtaining a sum of  
21 £30,000 in cash".

22 .

23 Now, next there, Mr. McArdle is giving his recollection  
24 that Mr. Copsey says he thinks "Jim", that's Gogarty,  
25 "wanted to make a political contribution"; isn't that  
26 right?

27 A. That's correct.

2 666 Q. The next document here is a further attendance of that day,  
29 made by Mr. McArdle's secretary, Eilish, and again on Roger  
30 Copsey who said: "Forget the call of this morning. At  
31 your reasonable leisure draw up a cheque from client  
32 account, £30,000 payment payable to JMSE. If you need a

1 letter of instruction or such like phone his secretary",

2 signed "Eilish". Isn't that right?

3 A. Yes.

667 Q. It would seem clear from these two attendances, Mr. Murphy,

5 that some time, in the interval of time between these two

6 attendances Mr. Copsey, something occurred which caused Mr.

7 Copsey to change his instructions to Mr. McArdle; isn't

8 that right?

9 A. Yes, obviously yes.

1 668 Q. We also know, from subsequent correspondence that Mr.

11 Gogarty was involved in this transaction, there were

12 letters saying that he didn't need it, "should I send it to

13 him" and so on?

14 A. Yes.

1 669 Q. Mr. Copsey said, according to Mr. McArdle, as he records,

16 "this money was required by Jim as a political

17 contribution"?

18 A. Yes.

1 670 Q. Now, I suggest to you that what occurred in the interval of

20 time between these two attendances, that is between the

21 morning of the 8th of June and the afternoon of the 8th of

22 June, is that Mr. Gogarty discovered that he would be able

23 to draw out this £30,000 from the JMSE accounts itself?

24 A. Yes.

2 671 Q. And we do know in --

26 .

27 MR. CALLANAN: I don't believe that was ever put to Mr.

28 Gogarty. It seems quite an extraordinary procedure to

29 conduct an examination of one's own witness on this

30 premise.

31 .

32 MR. COONEY: He is not my witness, he is the Tribunal's

1 witness, and I am cross-examining him.

2 .

3 MR. CALLANAN: Mr. Cooney's client.

4 .

5 MR. COONEY: He is my client but called by the Tribunal.

6 I am not going to engage in cross fire.

7 .

8 MS. DILLON: Perhaps if Mr. Cooney would find where this

9 was put to Mr. Gogarty on the transcript and then the line

10 of questioning can proceed?

11 .

12 MR. COONEY: I am not going to find it at this stage, I

13 haven't time, I will discover it later on. I would like to

14 continue, if I may, Mr. Chairman?

15 .

16 It would seem, as I was saying to Mr. Murphy, that

17 something radical happened between the morning and the

18 afternoon of the 8th of June, isn't that right, which

19 required --

20 .

21 MS. DILLON: This is comment on the part of the witness, it

22 is comment on the part of the witness and relates to a

23 matter in which an objection has been taken by counsel on

24 behalf of another witness, that the matter was not put to

25 his client. Either the matter was put to Mr. Gogarty or it

26 wasn't. It is a simple matter of checking.

27 .

28 MR. COONEY: Mr. Chairman, may I continue my

29 cross-examination please?

30 .

31 CHAIRMAN: Well, Mr. Cooney, I don't want to intervene in

32 the manner in which you conduct your cross-examination, but

1 you are in fact putting a premise to him which there does,  
2 which certainly has no foundation in his evidence.

3 .

4 MR. COONEY: With respect, Mr. Chairman, I am asking to  
5 draw conclusions from other evidence and I am perfectly  
6 entitled to, in cross-examination to do that.

7 .

8 CHAIRMAN: All right. You are drawing - what are, you  
9 are saying to him that, you are putting a premise to him  
10 that something happened and you are putting a suggestion of  
11 what did happen.

12 .

13 MR. COONEY: Yes, of course it is connected, Mr. Chairman,  
14 (A) with a logical and indeed only inference or deduction  
15 to be made from these documents, and (B) with his denial of  
16 Mr. Gogarty's accusations that he was involved in the  
17 attempted bribery of Mr. Burke and his evidence --

18 .

19 CHAIRMAN: Carry on.

20 .

2 672 Q. MR. COONEY: May it please you. Mr. Murphy, I was asking  
22 you, I was putting to you that it is very clear that  
23 something radically, something radical happened in the  
24 interval of time that occurred between these two  
25 attendances?

26 A. Yes, obviously, yes.

2 673 Q. The £30,000 was no longer required immediately from the  
28 account over which Mr. McArdle had control; isn't that  
29 right?

30 A. Yes.

3 674 Q. And that he could produce this £30,000 now, according to  
32 the second message, at his "reasonable leisure"; isn't that

1 correct?

2 A. Yes, that's what it says, yes.

675 Q. And we know from the other documents which have emanated

4 from Mr. McArdle, this is precisely what did, he did

5 drawdown the £30,000, he did send it on to JMSE with

6 correspondence which made reference to Mr. Gogarty and this

7 £30,000 was lodged to the JMSE account?

8 A. That's correct, sometime later, yeah.

676 Q. What I want to suggest to you is this; the radical

10 occurrence, the radical event which had occurred between

11 the time of these two attendances is that Mr. Gogarty

12 discovered that he could drawdown the £30,000 that he

13 required to pay to Mr. Burke from the JMSE accounts; isn't

14 that correct?

15 A. That would seem to be the case.

16 .

17 MS. DILLON: Sorry, Sir, in relation to this, I don't wish

18 to keep interrupting Mr. Cooney, it is something I think is

19 wrong, that counsel keep interrupting each other. He put

20 to the witness, he is seeking from this witness a

21 conclusion or inference from the document, first is there

22 any inference to be drawn from the document, that's for you

23 and not the witness. Independently he is putting to the

24 witness that Mr. Gogarty discovered he could drawdown

25 £30,000 that he required to pay to Mr. Burke from the JMSE

26 account, that should have been put to Mr. Gogarty, that

27 that in fact is what happened on the 8th of June of 1989.

28 To the best of my recollection, and I will stand corrected

29 if the transcript shows it otherwise, that was never put,

30 and I think, Sir, that in fairness, it is a matter that

31 should have been put, if Mr. Cooney is now suggesting that

32 you should draw an inference that something radical

1 occurred on the 8th of June that caused Mr. Gogarty to  
2 conduct himself in a certain fashion, that that's a matter  
3 that should have been put to Mr. Gogarty in  
4 cross-examination.

5 .

6 Perhaps, Sir, you would allow us a short opportunity to  
7 check the transcripts to see whether in fact that matter  
8 was put.

9 .

10 MR. COONEY: Mr. Chairman, I object to this course of  
11 action. For six days my client has been subjected to  
12 hostile cross-examination of varying degrees of hostility.  
13 Now is the time to give his evidence, Mr. Chairman, I am  
14 entitled to cross-examine and put this to him. It is also  
15 of significance, Mr. Chairman, not only does the  
16 documentation support the deduction that I am putting to  
17 Mr. Murphy and which he agrees, but so will the evidence of  
18 Mr. Tim O'Keeffe, that on the 8th of June he was instructed  
19 by Mr. Gogarty to go to the bank with a cheque for £20,000,  
20 and that he followed those instructions and brought back  
21 £20,000 to Mr. Gogarty. That's his evidence, Mr.  
22 Chairman, I assume the Tribunal will test it in its own  
23 way?

24 .

25 CHAIRMAN: Mr. Cooney --

26 .

27 MR. COONEY: I am entitled to put this.

28 .

29 CHAIRPERSON: Mr. Cooney, of course you are entitled to  
30 put this. May I make this remark in, I hope a helpful  
31 sense, what you have been doing in the last half to three  
32 quarters of an hour is giving a recital of what appears to



1 be your deductions and getting acceptance and agreement  
2 from your witness. Undoubtedly if you wish to continue on  
3 that basis, but may I point out that it appears to be your  
4 deductions and not the, not necessarily the witness'  
5 evidence. It would be more helpful to the Tribunal if the  
6 witness were giving this evidence and not counsel.

7 .

8 Now, you can pursue the course that you wish, but may I  
9 just draw your attention to what it is, if you read it, you  
10 will see you are putting a series of propositions, getting  
11 "yes, I agree".

12 .

13 MR. COONEY: But the important --

14 .

15 CHAIRMAN: But I have no wish to stop you, I am merely  
16 drawing your attention to what --

17 .

18 MR. COONEY: I understand, Mr. Chairman, but I  
19 respectfully say that the importance of this is not that I  
20 am doing it or the witness is agreeing with me, the  
21 importance of it is that no other conclusion could  
22 reasonably be drawn from the documents and the other allied  
23 evidence that we have in this matter.

24 .

25 CHAIRPERSON: That, Mr. Cooney, is my affair. I  
26 perfectly accept that this, you are putting what I might  
27 best describe as your version as you, your client sees  
28 these circumstances as they transpired. But I have no  
29 objection to that, I am merely drawing attention to this,  
30 the manner in which it is being done, I think it is getting  
31 your version through, but the conclusions are my affair.

32 .

1 MR. COONEY: I quite understand the conclusions --

2 .

3 CHAIRMAN: So long as we clearly understand.

4 .

5 MR. COONEY: There couldn't be anything other than that.

6 I am very conscious that at the end of this Tribunal you

7 draw the report and final conclusion, I know and accept and

8 respect that, Mr. Chairman. Obviously I am eliciting this

9 evidence in the hope that --

10 .

11 CHAIRMAN: This is a scenario as you know it.

12 .

13 MR. COONEY: I will be submitting to you when the time

14 comes for submission that there is no other deduction.

15 .

16 CHAIRMAN: That's a different matter. The witness can't

17 draw that conclusion.

18 .

19 MR. COONEY: Even that the Tribunal hasn't attempted to

20 put up a more logical or persuasive scenario from these

21 particular pieces of evidence when they are assessed and

22 put together.

23 .

24 CHAIRMAN: In due course.

25 .

2 677 Q. MR. COONEY: Very well. Now, what we do know, Mr.

27 Murphy, from the evidence of Mr. Tim O'Keeffe and from our

28 examination of the other documents, is that £30,000 was

29 drawn from the JMSE No. 2 Account in the AIB branch in

30 Talbot Street; isn't that right?

31 A. That's correct, yes.

3 678 Q. In precisely the form that Mr. Copsey had requested it that

1 morning from Mr. McArdle; isn't that right?

2 A. Yes, that would seem to be the case, yes.

679 Q. What we do know from Mr. Burke's evidence and from other  
4 evidence, is that Mr. Burke received £30,000 in that form;  
5 isn't that right?

6 A. Yes, 20 in cash and 10 in a cheque.

680 Q. And that cheque was, eventually came back from Mr. Burke's  
8 bank and debited to our account?

9 A. Yes, yes.

1 681 Q. Now here we have, we have a request to Mr. McArdle for sums  
11 of money for £30,000 broken down into those two precise  
12 sorts of currency and cheque; isn't that right?

13 A. That's correct, yes.

1 682 Q. Mr. McArdle finds he is unable to do that and he is told at  
15 his reasonable leisure merely to produce a cheque for  
16 £30,000?

17 A. That's correct.

1 683 Q. We know that on the same day cheques are written on the  
19 JMSE account, and one of those cheques is cashed for  
20 £20,000 at the Talbot Street branch on the 8th of June?

21 A. Yes.

2 684 Q. And according to Mr. O'Keeffe's evidence was given by him  
23 to Mr. Gogarty?

24 A. That's right.

2 685 Q. We know a cheque for £10,000 was written on the same day to  
26 cash; isn't that right?

27 A. That's correct.

2 686 Q. We know, at least partly from Mr. Gogarty's evidence, and  
29 Mr. Bailey's evidence, and Mr. Burke's evidence, that these  
30 sums of money were passed over to Mr. Burke on that day?

31 A. Yes, on some day, yes.

3 687 Q. Now, can you explain to the Chairman how the sum of £30,000

1 was broken down into those precise differences, £20,000 in  
2 cash and £10,000 in cheque?

3 A. No, I have no knowledge as to why --

688 Q. Clearly whoever was making the payment to Mr. Burke wanted  
5 to make it in that form; isn't that right?

6 A. Looks like the case, yes.

689 Q. And that's the way it was drawn out of your company's  
8 account, according to Mr. O'Keefe on the instruction of  
9 Mr. Gogarty on that day; isn't that right?

10 A. Yes, according to Mr. O'Keefe, yes.

1 690 Q. So further, I suggest to you, that it seems clear that  
12 that's the way in which Mr. Burke required that money as  
13 well; isn't that correct?

14 A. That may well be the case, yes.

1 691 Q. And who was likely to convey Mr. Burke's wishes in that  
16 regard to Mr. Gogarty, do you think?

17 .

18 MR. CALLANAN: Sir, this wasn't put to Mr. Bailey and it  
19 wasn't put to Mr. Burke. We are now reaching extraordinary  
20 levels of absurdity in this.

21 .

22 MR. COONEY: Mr. Chairman, we are tired of listening to  
23 people say this is not a lis interpartes and not a criminal  
24 case, yet whenever it suits they pretend it is to make  
25 these points --

26 .

27 CHAIRMAN: Mr. Cooney, would you carry on as you are? You  
28 are now in the receiving end of the same sort of objection  
29 as you were making earlier in the trial. Now, let's gets  
30 on with the thing.

31 .

32 MR. COONEY: As you say yourself, Mr. Chairman, de bene

1 esse.

2 .

3 CHAIRMAN: All I want to know is what your clients say is

4 the version they understand happened so that I get an

5 understanding of where you come from, what you were doing,

6 that's my, the essence of my exercise.

7 .

8 .

692 Q. MR. COONEY: All right. Well, I will go back over it.

10 Mr. Murphy, Mr. O'Keeffe hasn't yet given evidence but you

11 know what his evidence will be?

12 A. I have read his statement, yes.

1 693 Q. And he will tell this Tribunal that on the instructions of

14 Mr. Gogarty he brought down a cheque for £20,000 to the

15 Talbot Street branch of AIB where JMSE kept its account?

16 A. That's correct.

1 694 Q. On his instructions he got £20,000 cash for that cheque?

18 A. That's correct.

1 695 Q. And he brought it back to Santry where it handed it to Mr.

20 Gogarty?

21 A. That's his statement, yes.

2 696 Q. And we also know from the examination of the records of the

23 company that there was another cheque written on that day,

24 that was for £10,000 made out to cash?

25 A. That's correct, yes.

2 697 Q. And we know that that cheque made out for £10,000 to cash

27 went to Mr. Burke's account and was eventually debited to

28 the JMSE account?

29 A. We know that, yes.

3 698 Q. We know from the correspondence which Mr. McArdle kept that

31 Mr. Gogarty was involved in this transaction because he is

32 mentioned at least twice; isn't that right?

1 A. That's correct.

699 Q. Yes. We know from Mr. McArdle's statement that Mr. Copey  
3 told him, Mr. McArdle, that he thought that "Jim wanted to  
4 make a political contribution"; isn't that right?

5 A. That's in Mr. McArdle's statement, yes.

700 Q. We know that originally what Mr. Copey was asking, so that  
7 "Jim might make the contribution", as according to him it  
8 was £20,000 in cash and £10,000 cheque; isn't that right?

9 A. That's correct, yes.

1 701 Q. We know that those instructions were subsequently changed;  
11 isn't that right?

12 A. That's correct.

1 702 Q. But the payment in the form I have mentioned to you came  
14 out of the JMSE account?

15 A. That's correct, yes.

1 703 Q. So I suggest to you that arising out of that there are two  
17 conclusions inevitable and only can be drawn. (A) that  
18 £30,000 was paid to Mr. Burke in the form of £20,000 in  
19 cash and £10,000 in cheque, and that (B) that those sums  
20 were drawn from the JMSE account by Mr. Gogarty with the  
21 assistance of Mr. O'Keeffe; isn't that correct?

22 A. That's correct.

2 704 Q. And that that is an implementation of what Mr. McArdle had  
24 recorded earlier on the 8th of June?

25 A. Exact replica, only the initial sums were to come from  
26 Grafton and it eventually came from JMSE.

2 705 Q. All right. Now, if I could just turn to another topic,  
28 Mr. Murphy, I was asking - sorry, we were dealing with the  
29 sequence of events and the information which you had  
30 uncovered in July and August and September, and this is  
31 with the assistance of your solicitors and some of the  
32 executives in JMSE; isn't that correct?

1 A. Frank Reynolds.

706 Q. Yes, I see. Now, I think that by September or shortly

3 after that, you had a fairly complete picture of what had

4 happened; isn't that right?

5 A. Yes.

707 Q. And you had moved from a state of knowledge where you knew

7 from your own personal experience that you had not been

8 involved in the attempt to bribe Mr. Burke, as Mr. Gogarty

9 alleged, and Mr. Connolly repeated in the newspapers, to

10 now establishing what had really happened on that occasion;

11 isn't that correct?

12 A. Yes, from the JMSE point of view, yes.

1 708 Q. I see. Again I have to suggest that you were

14 cross-examined by Mr. Callanan, Mr. Mohan on the basis that

15 all of this knowledge you had should have been

16 instantaneously available to you, could that be?

17 A. No, absolutely not.

1 709 Q. Bearing in mind the practicalities of the situation, the

19 manner which this happened, and the demands on your own

20 time and other people's time, was there anyway that you

21 could have put this information together at an earlier

22 date?

23 A. It was put together over a series of time in July and early

24 August, as I say, we had other things to do at the time,

25 run the company, family and the whole thing was put

26 together in around July, early August.

2 710 Q. Yes, all right. Now, you have heard or you are familiar

28 with Mr. Bailey's evidence; isn't that right?

29 A. Yes.

3 711 Q. Have you heard of the evidence which he has given about the

31 agreement to pay £150,000 to Mr. Gogarty?

32 A. I have.

712 Q. Was that the first time that you learned of that?

2 A. I think yes, when Mr. Allen put it in cross-examination to  
3 Mr. Gogarty, that's the first time I definitely heard it.

713 Q. Did you, were you present when the handwritten notes which  
5 Mr. Gogarty kept and which have been discovered by him to  
6 the Tribunal were being put to him?

7 A. I think I was, yes.

714 Q. Do you recall that these notes referred to an agreed price  
9 for these lands not of the sum ultimately paid of 2.3  
10 million but 2.4 million?

11 A. I did indeed.

1 715 Q. Yes. You were aware in the letter of the 8th of June from  
13 Mr. Bailey to Mr. Gogarty that Mr. Bailey's first offer for  
14 a sale was 2.8 million approximately?

15 A. Yes, I remember that figure.

1 716 Q. Now, I know you had nothing to do with the land owning  
17 companies, but as a businessman of some 10 years experience  
18 have you ever heard of a purchaser starting off  
19 negotiations with his highest, best bid and going down?

20 A. No, absolutely not.

2 717 Q. Are you able to draw any inevitable conclusion between the  
22 drop in the value or price of these lands from 2.8 million  
23 to 2.3 million over a period of five months, and Mr.  
24 Bailey's evidence that he was paying a bomb to Mr. Gogarty  
25 of --

26 A. In my opinion Mr. Gogarty dropped the price of the land to  
27 receive a backhander from Mr. Bailey.

2 718 Q. You also saw in those handwritten notes that Mr. Bailey,  
29 that Mr. Gogarty said he wondered if he would get £10,000  
30 from Fred Duffy's commission?

31 A. He was trying to stroke the auctioneer, he was trying to  
32 stroke the Baileys and later on he was trying to stroke us.



719 Q. He said that those words did not have that meaning, have  
2 you looked at those words?

3 A. I have.

720 Q. Yes. Now, yesterday and today you were asked a  
5 considerable number of questions by Mr. Mohan on behalf of  
6 Mr. Ahern. First of all I want to ask you generally  
7 speaking, you had three contacts with Mr. Ahern; you met  
8 him on the 24th of June, the 1st of July and the telephone  
9 conversation on the 10th of September?

10 A. That's correct.

1 721 Q. Generally speaking how would you describe your relationship  
12 with one another during those three contacts?

13 A. During the initial meetings I would describe them as  
14 friendly enough and amicable to me. Mr. Dermot Ahern  
15 seemed a nice, pleasant man, for want of a better word  
16 during the meetings.

1 722 Q. And I think that various parts of Mr. Ahern's evidence was  
18 put to you by Mr., by Mr. Mohan. I just want to refer to  
19 one or two passages which occurred elsewhere in that  
20 transcript which was in Volume 50, and it is, the first  
21 passage is at page 57, question 268. Could you just open  
22 it at page 67 please?

23 .

24 CHAIRMAN: 67, Day 50?

25 .

2 723 Q. MR. COONEY: Yes, Day 50?

27 A. Yes.

2 724 Q. And you see the last question there, question 268?

29 A. Yes.

3 725 Q. Now, at this stage I am questioning Mr. Ahern and I put  
31 this question to him and I quote: "He will say", that's  
32 referring to you, Mr. Murphy; "He will say that he also

1 told you that he had inquired from his father and from Mr.  
2 Copsey, Mr. Reynolds and the other three directors of the  
3 company, if they knew about any payments to Ray Burke and  
4 that they had said "no" but your recollection differs from  
5 that?"

6 .

7 Now, Mr. Ahern says this: "I am not saying it differs, I  
8 am saying that in any of the discussions that we had, he  
9 had indicated to me that up to that, there was no evidence  
10 within his company"?

11 A. Yes.

1 726 Q. Now, I think that Mr. Ahern is clearly stating there that  
13 you had made it clear to him that the information that you  
14 were giving to him during those meetings was the  
15 information which you had then available to you?

16 A. That's correct, yes.

1 727 Q. And he says that specifically there?

18 A. Yes, he says "he indicated to me that up to that there was  
19 no evidence within his company".

2 728 Q. Now, if I could turn to another passage at page 90, and you  
21 see question 371, again he is cross-examined here and I  
22 have put to him about, you had told him about the other  
23 lands that you had bought yourself, Mr. Murphy, and then I  
24 said: "They have been rented out" - I go on to say to Mr.  
25 Ahern, "Now, he agrees that you did ask if Gogarty would  
26 have access to the sort of money which had been spoken  
27 about and whether he was a cheque signatory, and he will  
28 say he told you he wasn't sure whether, he was not at that  
29 time but that he would check. Do you remember that?"

30 .

31 And Mr. Ahern says: "There wasn't a huge amount of  
32 discussion about who was signatory, the cheque

1 signatories. What really I asked all the time, because I  
2 was trying to get out whether or not Gogarty could have  
3 taken money out of the company without him knowing".  
4 .  
5 Then the next question: "Yes, well I will come to that  
6 later on and we will deal with the telephone  
7 conversations. I suggest during the course of that first  
8 conversation you had with him, you did raise the issue. He  
9 told you that he had checked with Roger Copsey, his father  
10 and with Frank Reynolds, and they said no payments, and  
11 then you asked him, I think, probably probing the matter  
12 more, whether or not James Gogarty had been a signatory and  
13 he said he would check to see whether or not he was a  
14 signatory at the time".

15 .  
16 Mr. Ahern then answers: "Well, my understanding was that  
17 Gogarty at the time, my recollection is that Gogarty had  
18 the ability to get money out of the company. I think what  
19 the - what was slightly up in the air was whether or not -  
20 I think he probably couldn't on the first meeting one  
21 hundred percent confirm the position but he was quite  
22 adamant that having investigated the matter because of all  
23 of the allegations over the last year and a half that  
24 nothing transpired within the company which would suggest  
25 that money could have been taken out".

26 .  
27 Now, in that passage, Mr. Murphy, was Mr. Ahern truthfully  
28 and accurately without any acrimony at that stage telling  
29 the truth about what the state of conversation was between  
30 you then and what was being discussed and what remained to  
31 be checked?

32 A. Yes, broadly speaking yes.

729 Q. Now, at that stage I think no acrimony had broken out,  
2 perhaps I am sorry, I am wrong about that - now, the final  
3 passage I want to draw to your attention is on page 99, and  
4 I think we are discussing the meetings there, and at  
5 question 414 I put to Mr. Ahern, "I see. Again I think you  
6 wouldn't criticise him for that, Minister. He was being  
7 prudent and prudently cautious I think". And Mr. Ahern  
8 replies: "I fully accept that. Again the whole, that what  
9 I took away from this was that he was first of all  
10 confirming, double confirming to me that no money had been  
11 given, but secondly that he wanted to be cautious and that  
12 he was having nothing to do with Mr. Bailey or Mr.  
13 Gogarty".

14 .  
15 Now, there Mr. Ahern is confirming that you had been  
16 cautious in the manner in which you gave him information;  
17 isn't that right?

18 A. That's correct.

1 730 Q. "And I think that that was his attitude when I asked him  
20 about this in May last". Isn't that right?

21 A. Yes.

2 731 Q. I think that contrasts considerably to the attitude  
23 displayed by his counsel to you yesterday and today?

24 A. That's correct.

2 732 Q. And instead of being described as a person who was cautious  
26 in the manner which you gave information to Mr. Ahern, you  
27 are described as being a liar, and giving false and  
28 misleading information, that's the way it was put to you by  
29 Mr. Mohan; isn't that right?

30 A. That's correct.

3 733 Q. Even though his client had described you as being cautious  
32 in that answer; isn't that correct?

1 A. Yes.

734 Q. Can you suggest to the Chairman, Mr. Murphy, any reason for  
3 this change of attitude on behalf of Mr. Ahern as expressed  
4 by his counsel since that time?

5 A. I think first of all, Mr. Ahern is a politician and I think  
6 sometime in 1998 he was on a TV programme, maybe it was  
7 '97, I forget which year now, the day. I think he was  
8 cornered by Mr. Ruari Quinn and Mr. Godson --

735 Q. Sorry, go ahead?

10 A. Yeah --

1 736 Q. I think this was a Prime Time programme, transmitted on the  
12 28th of May of --

13 .

14 MR. MOHAN: Mr. Chairman, Mr. Cooney, if I may make an  
15 objection at this point? It is going into an action which  
16 exists, which the Tribunal is aware, which is between this  
17 witness and my client. I think from that point of view if  
18 he believes it was as a result of something that was said  
19 on that occasion he can say that, but I don't think it is  
20 appropriate that that matter is gone into in any further  
21 depth than that, given that there is another forum on  
22 another day in which Mr. Murphy is giving his view, but  
23 also Mr. Ahern has representation giving his view on how it  
24 would be dealt with. I think it would be more appropriate  
25 left like that.

26 .

27 MR. COONEY: This was a topic introduced by Mr. Mohan this  
28 morning when he specifically accused my client of lying, in  
29 other words he was repeating an accusation which was made  
30 by his client, Mr. Ahern, a year and a half, less than  
31 that, a year after Mr. Murphy and he last had contact.

32 .

1 Mr. Mohan towards the end of his cross-examination this  
2 morning wanted to know what motivation could Mr. Ahern have  
3 for making these allegations against Mr. Murphy, plainly he  
4 introduced the topic, I must reply to it, and Mr. Murphy  
5 must be given an opportunity --

6 .

7 MR. MOHAN: If I may answer that, Mr. Chairman? That's  
8 incorrect. I did ask that question, I didn't once refer to  
9 this particular programme, and in fact it was only after  
10 that the witness in fact, I think, I may be wrong, but the  
11 record will show it, had referred to my client as having  
12 referred to him as having lied, I think on two or three  
13 occasions. As I said, I think that we could get into, as  
14 it were, a slanging match, which I didn't wish to get into  
15 on that point, with two different views.

16 .

17 I asked him simply could he give any particular view as to  
18 why my client would act in that manner toward him, and he  
19 referred in fact to not this programme but to another  
20 programme, you recall this answer this morning, and that  
21 was the programme, that was another programme entirely, it  
22 was a Questions and Answers programme, not the Prime Time  
23 programme to which this witness refers. I do not think it  
24 is appropriate that this issue should be dealt with, given  
25 there is another forum. The witness can say there is an  
26 action which exists between the parties that I can have no  
27 difficulty with. Beyond that I don't think it is  
28 appropriate.

29 .

30 MR. COONEY: Mr. Mohan specifically asked Mr. Murphy this  
31 morning what explanation would there be for Mr. Ahern  
32 turning against him. I want to follow that up, and

1 following that up obviously implies a contribution of what  
2 was said, consideration of what was said by Mr. Ahern about  
3 Mr. Murphy on a subsequent date and a very precious  
4 submission in my view for Mr. Mohan to say, because there  
5 is a defamation action in existence which is a matter of  
6 public record, that I cannot ask the witness questions  
7 about that, there is no substance in that objection,  
8 Mr. Chairman. It is entirely relevant to the  
9 cross-examination conducted by Mr. Mohan. To attempt to  
10 cut me off now would be quite artificial and quite unfair  
11 and prevent the full truth from emerging here. It should  
12 --

13 .  
14 MR. MOHAN: Mr. Chairman, I think very briefly --

15 .  
16 MR. COONEY: This is the third time he spoke.

17 .  
18 CHAIRMAN: This is the last submission I am hearing from  
19 anybody.

20 .  
21 MR. MOHAN: If I may say this, given the type of objection  
22 Mr. Cooney was taking all yesterday afternoon, I find it  
23 quite extraordinary the comment he is making about this  
24 objection. The point was a straight forward question this  
25 morning, that was what point, if any, could the witness  
26 give in relation to the issue about whether or not my  
27 client was telling the truth or otherwise. He, this - the  
28 witness, referred to a television programme, not the  
29 programme to which he now refers, there is an issue between  
30 my client and this witness which has to be dealt with on  
31 another day in another forum, the reference to that fact  
32 can of course be made but outside of that I take grave

1 exception and objection to it, because that's another  
2 matter which is outside the remit of this Tribunal.

3 .

4 MR. COONEY: Mr. Chairman, can I point out Mr. Murphy is  
5 suing the Sunday Business Post. He already obtained an  
6 apology from the Sunday Times and from the Sunday Tribune.  
7 Is there any possible reason why these matters shouldn't be  
8 referred to?

9 .

10 CHAIRMAN: Mr. Cooney, it, appears to me that, the basis  
11 on which you are proceeding is acceptable, but might I  
12 suggest that at this point in time it is - the witness  
13 should give the answer and you should ask the question, if  
14 I may put it with being impolite to you. I haven't in  
15 anyway stopped you because I do want to hear your version  
16 as such. There is a moment in time where the recital  
17 should end and the pianist should go solo.

18 .

19 .

2 737 Q. MR. COONEY: Yes, Mr. Chairman, I think I follow the  
21 analogy. Would you like an intermission perhaps,  
22 Mr. Chairman? These questions, Mr. Murphy, are related to  
23 questions which were put to you by Mr. Mohan this morning  
24 as to why Mr. Ahern would have said these things about  
25 you. Now on a Prime Time programme broadcast on the 28th  
26 of May of 1988 he accused you of lying; isn't that right?

27 A. That's correct.

2 738 Q. Have you sued him in defamation for that remark?

29 A. Yes.

3 739 Q. You intend to pursue that case?

31 A. Yes.

3 740 Q. I see. Now, Mr. Mohan asked you why would he have done



1 that? Do you watch that programme?

2 A. I watched that programme.

741 Q. Did you read the transcript?

4 A. I read the transcript, yes.

742 Q. Who was on the programme with him?

6 A. I think Mr. Ruari Quinn, and journalist Mr. Rory Godson and

7 there was a third person on, a female.

743 Q. The Prime Time programme we are talking about in '98?

9 A. The Prime Time.

1 744 Q. Ruari Quinn was on it and Mr. Alan Shatter.

11 .

12 MR. MOHAN: If I may, following your ruling, Mr. Chairman,

13 the witness should give the evidence now not Mr. Cooney.

14 A. I can say, I can answer it very shortly.

15 .

16 MR. COONEY: We have a transcript of the programme, but we

17 want to bring it to a halt.

18 .

19 CHAIRMAN: Can we hear what the witness' answer is?

20 .

2 745 Q. MR. COONEY: This is a programme which was participated in

22 by Mr. Ahern and Mr. Ruari Quinn, and Mr. Eamonn Lawlor was

23 the presenter; isn't that correct?

24 A. That's correct, yes.

2 746 Q. And the topic of the programme was Mr. Burke and payments

26 to politicians; isn't that right?

27 A. Yes.

2 747 Q. And Mr. Quinn and Mr. Lawlor were pressing Mr. Ahern; isn't

29 that correct?

30 A. Yes.

3 748 Q. Mr. Ahern had brought up his visits to London; isn't that

32 right?

1 A. That's right.

749 Q. Mr. Quinn said to him " Murphy said "no", and in the same

3 autumn Ray Burke said "yes, that the money had", so Ray

4 Burke lied to you". Mr. Dermot Ahern then said, "No,

5 Murphy lied, Murphy gave me one verse. Ruari Quinn Murphy

6 lied". Eamonn Lawlor: "Or gave a mistaken version".

7 .

8 Now, you were asked this morning why had Mr. Ahern said

9 that in that programme? I want you to tell the Chairman

10 why you think he said --

11 .

12 MR. MOHAN: Sorry, please, Mr. Cooney, through the Chair,

13 if I may say, is putting something I never put to the

14 witness this morning, I never put that. He should get the

15 question correct that I put to the witness this morning.

16 If I may through the Chair please? I asked the witness

17 quietly what agenda did he believe Minister Ahern had in

18 respect of the, himself, in other words I was putting to

19 him he had no agenda with this witness, Mr. Gogarty or

20 anybody else, and why would Minister Ahern say what he is

21 saying? Was there any reason that he believed he was

22 saying what he was saying, that's what I put to him, not

23 anything in relation --

24 .

25 CHAIRMAN: Let's take that as the question, if that is the

26 question and get the answer.

27 .

28 MR. COONEY: It is very difficult to see the difference

29 between agenda and why he said it, the other remark is -

30 Mr. Mohan said he would get the transcript of the other

31 programme, which I am coming to. How can he if he is going

32 to introduce the transcript of the other programme, it is

1 difficult to say --

2 .

3 MR. MOHAN: Through the Chair, if I may? I am objecting  
4 to Mr. Cooney giving evidence or submissions which are more  
5 properly matters for argument.

6 .

7 CHAIRMAN: I want to hear the evidence from the witness  
8 and what he says and not what either of the two of you say,  
9 with due respect.

10 .

1 750 Q. MR. COONEY: Mr. Murphy, what was, in the words used by  
12 Mr. Mohan this morning, Mr. Ahern's agenda in accusing you  
13 on a television programme broadcast by the National  
14 Broadcasting Service, accusing you of being a liar, what  
15 was his agenda?

16 A. Obviously put under pressure by the other gentlemen on the  
17 programme and lashed out at me.

1 751 Q. I see. He ever --

19 A. And up to that time I had no grievance whatsoever with Mr.  
20 Ahern, I was shocked.

2 752 Q. Did he ever come to you following your last contact with  
22 him on the 10th of September of 1997 and say to you "you  
23 mislead me and gave me false information"?

24 A. No.

2 753 Q. Now, I want to refer then to the transcript of the other  
26 programme, which I think Mr. Mohan has no objection to,  
27 that was a Question and Answer programme, which was  
28 broadcast five days after your telephone conversation with  
29 him; isn't that right?

30 A. That's correct.

3 754 Q. I just have to lay my hand on this matter.

32 .

1 MR. MOHAN: I presume, again through the Chair, that the  
2 witness is going to give the evidence in this regard and  
3 not Mr. Cooney? The witness has seen the programme, he  
4 mightn't need the transcript.

5 .

6 MR. COONEY: Have you a copy of this transcript?

7 .

8 MS. DILLON: We don't have this transcript and it is not  
9 in the book of documents.

10 .

11 MR. COONEY: It was put into evidence.

12 .

13 MS. DILLON: It was referred to in the evidence on Day  
14 50. Mr. Cooney sought to rule on whether we should look at  
15 the video, it never went into evidence. No matter in the  
16 transcript was ever put to Mr. Ahern. I can refer him to  
17 the relevant portion of the transcript if he wishes?

18 .

19 MR. MOHAN: That does appear to be the issue.

20 .

21 MS. DILLON: We don't have that document.

22 .

23 MR. COONEY: Mr. Mohan agreed this morning that that  
24 should go in.

25 .

26 MR. MOHAN: I don't have a copy of the transcript in front  
27 of me.

28 .

29 MS. DILLON: It is not a question of whether Mr. Mohan  
30 agrees to it going in, it's a question of whether the  
31 Tribunal agrees to the matter going in. The arrangement  
32 for documents is well-known to all parties appearing before

1 this Tribunal. Documents that affect anybodys' interest  
2 have to be circulated. This document has never been seen  
3 by the Tribunal. You have already excluded documents  
4 because they have not been discovered. For consistency  
5 this document should not be admitted or circulated at this  
6 point in time.

7 .

8 MR. COONEY: The matter was raised by Mr. Mohan in his  
9 cross-examination of Mr. Murphy this morning, and surely it  
10 is a matter of elementary fair play and elementary  
11 procedure, I am entitled to follow-up --

12 .

13 MR. MOHAN: Again I did not raise this programme this  
14 morning.

15 .

16 MR. COONEY: He said he was going to introduce the  
17 transcript.

18 .

19 MR. MOHAN: Sorry, through the Chair, the witness referred  
20 to it.

21 .

22 MS. DILLON: Sir, I asked Mr. Cooney yesterday for  
23 documents that they intended circulating, I received those  
24 documents yesterday. We prepared a booklet of documents  
25 and they have been circulated. This document was not  
26 included in it, even if this document had not been  
27 discovered to the Tribunal, had it been circulated to all  
28 parties in sufficient time for this witness to deal with it  
29 and for everyone to be on notice with it, I would be quite  
30 happy to make an exception, but I specifically made the  
31 request yesterday in advance of Mr. Cooney's  
32 cross-examination, that the documents he wished to rely on

1 would be circulated. It is not included. It goes in the  
2 teeth of the procedures laid down by this Tribunal, Mr.  
3 Cooney may regard it as unfair, the procedures are there to  
4 protect everybody and to ensure that everyone is treated in  
5 the same fashion.

6 .

7 MR. COONEY: I can't see the point of this, I am putting  
8 to my own witness, how can this be? How can Mrs. Dillon's  
9 opposition to introducing this be held to be protecting  
10 this witness, he is my client, and I want to put something  
11 to him which clearly he wants to give evidence about? This  
12 is quite absurd, Mr. Chairman. This could have been over  
13 five, 10 minutes ago if it were not for --

14 .

15 CHAIRMAN: Mr. Cooney, the situation appears to me that it  
16 certainly arose in the course of the cross-examination, the  
17 precise document was not put in, if there is a passage in  
18 it and it is a simple, well I use the phrase "short  
19 passage", I am talking about a question or answer, that  
20 sort of situation, you can ask him did he hear the  
21 programme? If he did, did he hear this particular  
22 question, and what is his comment or what comment does he  
23 make on it? . Now simply limited to that.

24 .

25 MR. COONEY: Absolutely, Mr. Chairman, I agree entirely  
26 and that's what I intend to do.

27 .

28 CHAIRMAN: Now, let's go on with it.

29 .

3 755 Q. MR. COONEY: Mr. Murphy, were you, are you familiar with  
31 the contents of the Questions and Answers programme which  
32 was broadcast on the 15th of September of 1997?

1 A. I saw a tape of it sometime afterwards.

756 Q. Yes. And again just who participated in that programme?

3 A. Mr. Ruari Quinn, Mr. Godson the journalist, Mr. Dermot

4 Ahern and maybe it was Mr. Alan Shatter.

757 Q. Yes. Do you know or can you tell the Tribunal whether or

6 not Mr. Ahern referred to you during the course of his

7 contribution to that programme?

8 A. Yes, he did. I think I stand corrected on the exact

9 wording, but I think that a question that Mr. Godson put to

10 him, I maybe incorrect now, I am not sure who the

11 politician was but certainly it was a question from the

12 journalist Mr. Godson, "Did you not put something to

13 Murphy", or whatever, and he responded "No, I haven't

14 talked to him since London".

1 758 Q. And was that the truth? Was that a truthful remark to give

16 to an audience and the viewers of that broadcast?

17 A. No it was not, I had, he initiated calls to me five days

18 previously, we had spoken twice.

1 759 Q. Yeah. Again, and I think Mr. Mohan asked you this, this

20 morning, what agenda did he have for telling this lie about

21 his contact with you at that time?

22 A. Pressure that was being put on to him at the programme at

23 the time.

2 760 Q. I see. Thanks.

25 .

26 MR. MOHAN: Mr. Chairman, just in relation to that one

27 issue --

28 .

29 CHAIRMAN: Well, first of all before deal with that one

30 issue, have you got a copy of the programme of the text?

31 .

32 MR. MOHAN: I don't have a copy either of --

1 .

2 CHAIRMAN: Mr. Cooney, could we have a copy of the text.

3 There is no point in a cross-examination taking place

4 unless the text is correct.

5 .

6 MR. COONEY: I do, Mr. Chairman. In fact you told me to

7 just put a passage, but I will --

8 .

9 CHAIRMAN: The text, the witness has to be asked or can be

10 asked is the text, is what he said and the text the same,

11 that's really what I want to know.

12 .

13 MR. COONEY: I will tell you what the passage is, I don't

14 have the transcript numbered, but there is a discussion, a

15 record and the usual discussion and --

16 .

17 CHAIRMAN: What's the question?

18 .

19 MR. COONEY: Yes. It is not a question, it is what Mr.

20 Ahern said. "I am not going to go into that. I will tell

21 you why, because Mr. Murphy I understand, and I haven't

22 spoken to him since has legal case is pending against all

23 the people involved, and similarly what I was told was

24 hearsay, I was told a story in regard to all of this issue

25 and relayed it to my Party Leader". When he says "I

26 haven't spoken to him since earlier". He referred to a

27 meeting in London and not the subsequent meeting in Fitzers

28 Restaurant and not the telephone conversation, that passage

29 was related to London.

30 .

31 CHAIRMAN: That's what you say.

32 .



1 MR. COONEY: Excuse me, Mr. Chairman, I hope you will read  
2 the text.

3 .

4 CHAIRMAN: That's a different matter. That's what you  
5 submit is the situation.

6 .

7 MR. COONEY: That's not what I submit, that's on a plain  
8 reading of the transcript, Mr. Chairman.

9 .

10 MR. MOHAN: Plain reading according to Mr. Cooney,  
11 Mr. Chairman.

12 .

13 CHAIRMAN: We won't go into that. By all means do so  
14 within very, very short parameters.

15 .

16 MR. MOHAN: I don't have a copy of that transcript in  
17 front of me. I was going to ask, with your permission, was  
18 to reserve my position in that regard. I would want to see  
19 the transcript and I would want to take specific  
20 instructions in that regard, so if I could reserve my  
21 position on that sole issue?

22 .

23 MR. COONEY: Mr. Chairman, Mr. Murphy has been six days in  
24 the witness-box under the most intensive hostile  
25 cross-examination.

26 .

27 CHAIRMAN: That's not going to happen. That transcript  
28 can be read in five minutes. Would you lend us a copy?

29 Mr. Cooney, I know, there is only one copy here, you have  
30 it, can the counsel read the copy?

31 .

32 MR. COONEY: Of course.

1 .

2 CHAIRMAN: Send it back. Let's finish this matter.

3 .

4 MS. DILLON: I have a few short questions. I could be  
5 going on with those.

6 .

7 MR. CALLANAN: Just one point, I would like to consider -  
8 would it be possible to have a few minutes?

9 .

10 CHAIRMAN: I will give you as much time as you want,  
11 within reason. I am not in anyway trying to give you --

12 .

13 MR. CALLANAN: Five or ten minutes.

14 .

15 CHAIRMAN: I have no wish to guillotine anybody.

16 .

17 MS. DILLON: I will be five or ten minutes. It would  
18 probably be more appropriate that I will be last.

19 .

20 CHAIRMAN: Go on with the questions.

21 .

22 MR. CALLANAN: I am simply asking, Sir, if you consider  
23 rising perhaps for five minutes. There is just one point  
24 that I need to --

25 .

26 CHAIRMAN: Certainly, I will rise.

27 .

28 MS. DILLON: I think, Sir, you have another sitting, a  
29 private sitting.

30 .

31 CHAIRMAN: I know, Mr. Allen will just have to wait.

32 .

1 THE HEARING THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

2 AGAIN AS FOLLOWS:

3 .

4 MS. DILLON: I think, Sir, that Mr. Mohan may have one or

5 two questions for this witness arising out of the last

6 matter put by Mr. Cooney.

7 .

8 CHAIRMAN: What about Mr. Callanan?

9 .

10 MS. DILLON: I understand --

11 .

12 MR. CALLANAN: No further questions.

13 .

14 MR. COONEY: I object to any further questions by Mr.

15 Mohan.

16 .

17 CHAIRMAN: Wait now, just a moment. You were the witness

18 counsel, normally you would be second last to go, I would

19 agree. I didn't know that Mr. Mohan, sorry not Mr. Mohan,

20 Mr. Callanan had any, he flagged them, he says he has none

21 now. Mr. Mohan now has some questions. There has been a

22 row about this matter, I think Mr. Mohan should be asked to

23 ask two questions and two questions only. He says he has

24 two questions.

25 .

26 MR. MOHAN: I have a number of short questions about the

27 transcript. The transcript arose as a result of the

28 evidence Mr. Murphy gave this morning. Mr. Cooney in

29 cross-examination with Mr. Ahern referred to it, but it

30 wasn't put into evidence, and said something to the effect

31 "of course it should be looked at", that's the way it was

32 left, and that's the way it was referred to this morning.

1 I have a copy of the transcript. I can deal with the  
2 matter, as I say, in a very short period of time.  
3 .

4 CHAIRMAN: Now, just a moment, Mr. Cooney, is perfectly  
5 correct in saying the procedure in this Tribunal is that  
6 the person being examined, his counsel, if he has  
7 representation is the second last to address the Tribunal  
8 or to address in anyway. Now, you have to give me grounds  
9 for departing from that procedure? Now, what is the  
10 grounds? Let's hear the grounds first of all.  
11 .

12 MR. MOHAN: I say first of all what happened in relation  
13 to this issue was a submission more than a  
14 cross-examination by Mr. Cooney; a submission in relation  
15 to the reading of the transcript and the question from the  
16 transcript put to this witness. It was done so after this  
17 witness had referred, when I asked him about the reason  
18 this morning, he had referred to this matter, the witness  
19 said "maybe you should look at the transcript", I think I  
20 agreed with that, the record will show what I stated, and  
21 there the matter was left. In fact almost identical  
22 language was used between Mr. Ahern and Mr. Cooney on a  
23 previous occasion.

24 .  
25 Now, it would be distinctly unfair to Minister Ahern that  
26 he is not allowed to cross-examine this witness in relation  
27 to an allegation which is now being put at this point for  
28 the first time, that a transcript is in this effect, to  
29 this effect, that he has said something where he has told  
30 something which is untrue. That has been put for the  
31 first time now on re-examination.  
32 .

1 CHAIRPERSON: Mr. Mohan, one is in the Tribunal, it is a  
2 very difficult situation because unlike a judge there are  
3 no two parties, one to defend the other.

4 .

5 As I see the situation at the moment, and I wish to make it  
6 quite clear that I am doing my best to be as neutral as I  
7 possibly can, a state of affairs has arisen where you, your  
8 client is alleged on television, to have made a statement  
9 of fact, namely that he has not, heard from or - sorry,  
10 what was the exact phrase?

11 .

12 MR. COONEY: I can't remember, Mr. Mohan has my  
13 transcript.

14 .

15 MR. MOHAN: I have the transcript in front of me.

16 .

17 CHAIRPERSON: It is either "I have not spoken to him since  
18 London" or "since a particular date". That's a statement  
19 of fact. It is either correct or it's incorrect, or  
20 alternatively, at best it is capable of explanation, and  
21 that's the alternatives available to anybody. It doesn't  
22 matter who it is, I am not talking about Minister Ahern or  
23 anybody else. If that state of play arises from anybody,  
24 that's the two states.

25 .

26 First of all Mr. Ahern is not available here to give  
27 evidence as to whether or not he says it is right or  
28 wrong. I don't know whether he has ever had an  
29 opportunity of dealing with that matter before the  
30 Tribunal?

31 .

32 MR. COONEY: He said it in his evidence, Mr. Chairman.

1 .

2 CHAIRMAN: In his evidence, I was here on - obviously, but  
3 I don't have his evidence.

4 .

5 MR. COONEY: I think he said there was an article in the  
6 paper about this and that this had stimulated his curiosity  
7 and he looked at the video. Now I am saying that I think  
8 that's what he said, Mr. Chairman, I am not saying  
9 positively.

10 .

11 CHAIRMAN: Did he go on to say whether he accepted it?

12 .

13 MR. COONEY: Yes, he did, Mr. Chairman. No, sorry, he  
14 didn't accept it. But I think this, Mr. Chairman, first  
15 of all if there is anything that can be cleared up, it is  
16 clearly for Counsel for the Tribunal to do that, counsel  
17 has a right to do that if she thinks it is proper.

18 .

19 The second thing, Mr. Chairman, is all we have is a  
20 transcript, remember this is a transcript of a studio  
21 discussion taking place before the live audience. To get  
22 the full sense of what Mr. Ahern said on that occasion one  
23 would need to see the video as well, because as happens on  
24 this programme people talk across each other, and in order  
25 to get the full drift and effect of what was said you would  
26 need not merely to read the transcript but see and hear the  
27 video as well. I am quite confident when you read the  
28 discussion, Mr. Ahern was saying "I haven't spoken to Mr.  
29 Murphy", and he was referring back to an earlier passage  
30 when he said he was referring to the London meeting.

31 .

32 MR. MOHAN: I agree the programme should also be seen by

1 you, Mr. Chairman. In fact, I want to say in fact that Mr.  
2 Cooney introduced it under the cloak of cross-examination,  
3 but it is the furthest thing from cross-examination, it was  
4 in a submission to you that this matter arose, and I can  
5 deal with it by way of submission to you by making two  
6 points. And I would ask for that latitude at this point  
7 in time?

8 .

9 CHAIRMAN: All right. I will hear you at the end of the  
10 evidence altogether and not take any further evidence, any  
11 further examination of the witness. Ms. Dillon, you have  
12 a couple of questions? .

13 .

14 MS. DILLON: I have a few short questions simply in  
15 relation to Mr. Cooney saying if The counsel for the  
16 Tribunal consider it is appropriate they should deal with  
17 this matter in re-examination, in view of the fact I  
18 haven't got the transcript, I haven't seen the programme  
19 and the matter wasn't flagged to me in advance, I am not in  
20 a position to do that, but I would suggest that the matter  
21 could probably be dealt with by you, Sir, subject to Mr.  
22 Mohan's submissions at the end, by you agreeing to view the  
23 programme. We will obtain a copy of the programme in  
24 question and it can be viewed by you, if you consider it  
25 appropriate to do so. I don't propose to deal with that  
26 topic at all with this witness for those reasons.

27 .

28 THE WITNESS WAS RE-EXAMINED BY MS. DILLON AS FOLLOWS:

29 .

3 761 Q. MS. DILLON: A few very short matters, Mr. Murphy.

31 .

32 One matter arising out of the evidence of Mr. Dermot Ahern

1 and one matter only at your second meeting with, second  
2 meeting with Mr. Ahern on the 1st of July of 1997,  
3 reference was made to Mr. John O'Donoghue; is that correct?

4 A. That's correct.

762 Q. And can you tell us what that reference was, as best you  
6 recollect?

7 A. My recollection was that at the previous meeting he told me

8 --

763 Q. Would you just answer --

10 A. I will answer the question, but I want to put it in  
11 context.

1 764 Q. No, we have really, as Mr. Cooney said, had a very long  
13 time - the reference to Mr. O'Donoghue arose at the second  
14 meeting, correct or incorrect?

15 A. Correct.

1 765 Q. Would you just explain me how the reference to Mr. John  
17 O'Donoghue arose at the second meeting?

18 A. I asked him was he disappointed at not getting the Justice  
19 portfolio and he said "no", and he said he was quite happy  
20 with the ministerial position he got. He said he wasn't  
21 into a position, he said he wasn't in a position to get the  
22 immunity himself because he didn't get the Justice  
23 portfolio and didn't want to go to John O'Donoghue, as he  
24 didn't know him that well.

2 766 Q. And Mr. Ahern gave evidence here on Day 50, and question  
26 415 to 419 of the transcript dealt with this issue. And at  
27 question 417 the following was put, presumably on your  
28 instructions by Mr. Cooney, and he said: "And you said  
29 that you didn't know John O'Donoghue very well?"

30 Answer: Sorry?

31 Question: That did you not know Mr. John O'Donoghue the  
32 actual Minister?



1 Answer: In fact I am very friendly with John O'Donoghue,  
2 I have shared offices with John O'Donoghue since the day he  
3 and I, the same day entered in Dail Eireann. Of all the TDs  
4 in Leinster House I would know John O'Donoghue better than  
5 anyone"?

6 A. I heard that evidence, yes.

767 Q. Yes. Now, do you dispute Mr. Ahern's friendship with Mr.

8 O'Donoghue?

9 A. No.

1 768 Q. So do you accept you may have been incorrect in relation to  
11 your recollection of that part of the conversation?

12 A. No.

1 769 Q. You are not incorrect in relation to that?

14 A. No, I think that maybe Mr. Ahern might have felt obliged to  
15 discuss the immunity issue with me, but he did say that.

1 770 Q. Yes, I see. I think that's speculation on your part?

17 A. No, it is not speculation on my part, I do not accept that.

1 771 Q. To February of 1992 --

19 .

20 MR. COONEY: This is an example of Ms. Dillon's fairness,  
21 is it?

22 .

2 772 Q. MS. DILLON: Can I take you back to February of 1992 to  
24 your two meetings with Mr. Gogarty on the 10th and 17th of  
25 February of 1992?

26 A. Um.

2 773 Q. And at the second of those meetings which you say was  
28 acrimonious, Mr. Gogarty threatened you with going to the  
29 Revenue Commissioners, going to the Gardai and going to the  
30 press?

31 A. He did.

3 774 Q. And you described him as a vicious, evil liar and you

1 regarded his threats as serious?

2 A. I think the vicious evil liar was the way I described him  
3 to Mr. Dermot Ahern, yes.

775 Q. And did you regard his threats as serious?

5 A. I just, yes at the time, I mean I asked him what he was  
6 going, specially I think the Guards, I asked him what he  
7 was going - he said he had plenty of time on his hands, he  
8 would think of something.

776 Q. I think you also said earlier on that you felt afraid of

10 Mr. Gogarty at that meeting?

11 A. I felt that he was trying to threaten and intimidate me and  
12 exploit my lack of experience.

1 777 Q. And at that meeting he also told you, I think you told Mr.  
14 Cooney this afternoon, that he had kept files and loads of  
15 documents?

16 A. That's what he said.

1 778 Q. And he said, and I think you said this to Mr. Cooney this  
18 afternoon, "you are the man, I will destroy you"?

19 A. "You are", I think - I don't think "you are the man". I  
20 think he said "you are in charge now", or "you are the  
21 boss, I will personally take it out on you".

2 779 Q. Yes, and he had told you that he had retained files and  
23 documents?

24 A. Yes, he did.

2 780 Q. Now, in the light of that information, those threats by Mr.  
26 Gogarty, why did you not take the subsequent newspaper  
27 reports seriously?

28 A. Because he was putting me at the meeting and, I knew that  
29 not to be true. I had no hand, act or part in it.

3 781 Q. You were of the view, this man subsequently in the course  
31 of the P60, after the P60 case was over, I think you told  
32 us, threatened to report you or write to the Revenue in

1 some way in connection with your companies?

2 A. Yes, him or somebody on his behalf.

782 Q. That was the first threat put into place; is that right?

4 A. Yes.

783 Q. And then he subsequently spoke to Mr. Frank Connolly and

6 that was the second part of the threat put into place?

7 A. Yes.

784 Q. And then he subsequently reported you to the Gardai in

9 relation to the telephone calls in June of 1994, and that I

10 think you have told us was the third part of the threat put

11 into place?

12 A. Yes.

1 785 Q. So here is a vindictive person who appears to be pursuing a

14 vendetta against you?

15 A. That's correct.

1 786 Q. And yet when the matters first were published in the

17 newspapers you did not, I think your evidence has been to

18 the Tribunal, take the newspaper articles seriously?

19 A. No I did, I got legal advice on it at that time, I knew, I

20 dismissed them because I knew that I had no hand, act or

21 part in the bribing of Mr. Burke and then I dismissed them,

22 they died down for a while.

2 787 Q. I suggest to you that that is inconsistent with your

24 earlier evidence that you were taking Mr. Gogarty

25 seriously, and he appeared to carry out his threats against

26 you?

27 A. I reject that.

2 788 Q. Yes. Can I ask you to look at your statement briefly for a

29 moment please. There is a number of matters I want to

30 clarify with you in relation to your statement.

31 .

32 Sorry, we will give you a copy of your statement, Mr.

1 Murphy. I have that there for a second. I want to ask you  
2 to just confirm something that you said to me. I think  
3 when you were giving your direct evidence initially you  
4 said that Mr. Edgar Wadley was brought back into the  
5 regrouping of the company by your father, I think you said  
6 that; is that correct?

7 A. He was brought in to advise on the whole Conroy, the whole  
8 Conroy thing when it broke out.

789 Q. And that Mr. Wadley then brought in Mr. Copsey, I think you  
10 told us that on the second day of your evidence here?

11 A. Yeah, I think Mr. Wadley would have recommended Mr. Copsey  
12 to come back, and maybe my father rang him or Mr. Wadley  
13 rang him.

1 790 Q. Could I ask you to look at paragraph 3 of your statement,  
15 Mr. Murphy, please and I won't read the entire of the  
16 statement. I am only concerned with the last three lines.

17 .  
18 "So far as I am aware Mr. Gogarty had been the Managing  
19 Director of these companies until 1982 and my father had  
20 been Chairman. In 1982 my father retired ... Taking over  
21 as Chairman. The other members of management for 1982  
22 included Liam Conroy, Chief Executive... Which Mr. Gogarty  
23 describes at paragraph 41 of his affidavit. He once again  
24 took control of JMSE under his leadership. Roger Copsey  
25 was appointed to the board on the 17th of June, of 1988".

26 (Quoted).

27 .  
28 Was Mr. Copsey brought back into JMSE by Mr. Wadley or by  
29 Mr. Gogarty?

30 A. That's not what I am saying in this statement, that's not  
31 what I am saying, he took control under his leadership, Mr.  
32 Copsey under Mr. Gogarty's chairmanship.

791 Q. Mr. Gogarty was also appointed to the board on the same  
2 date?

3 A. Mr. Gogarty had been a director since going way back.

792 Q. Yes, that wasn't the question?

5 A. I am not suggesting there that Mr. Gogarty brought Mr.  
6 Copsey back.

793 Q. Well, what are you saying?

8 A. If that's what you are trying to say.

794 Q. I am just reading your own words, "Subsequent to the  
10 proceedings which Mr. Gogarty describes in paragraph 41 of  
11 his affidavit", "he" referring to Mr. Gogarty,"once again  
12 took control of JMSE. Under his", referring to Mr.  
13 Gogarty, "leadership Roger Copsey was appoint to the board  
14 on the 17th of June of 1988"?

15 A. What's wrong with that?

1 795 Q. I am suggesting it is at variance with your evidence, Mr.  
17 Murphy?

18 A. How?

1 796 Q. Your evidence was that Mr. Copsey came in as a result of  
20 Mr. Wadley, not as a result of Mr. Gogarty?

21 A. I am not suggesting that he came in under, a suggestion of  
22 Mr. Gogarty there, under Mr. Gogarty's leadership. Roger  
23 Copsey was appointed to the board on the 17th of June. It  
24 is quite clear to me, I don't know what spin you are trying  
25 to put on it, Ms. Dillon?

2 797 Q. I object to the use of the word "spin", Mr. Murphy, that's  
27 my job?

28 A. I am not saying in that statement that Mr. Gogarty brought  
29 Mr. Copsey in, he didn't. But it was under Mr. Gogarty's  
30 leadership that Roger Copsey was appointed to the board on  
31 the 17th of June.

3 798 Q. The paragraph does not refer to your father, does it, apart

1 from the first sentence?

2 A. No.

799 Q. The paragraph refers to Edgar Wadley and his role in anyway

4 in the appointment to Mr. Copsey?

5 A. No, it does not.

800 Q. Thank you. Can I now refer you to paragraph 19 of your

7 statement please. This is in relation to the meetings in

8 February of 1992. And the first line of your statement

9 says: "Subsequent to our appeal of the Circuit Court

10 decision" , I think the Circuit decision was March of 1994

11 in relation to the P60 issue; isn't that correct?

12 A. I accept that.

1 801 Q. "Mr. Gogarty had a meeting with Mr. Reynolds at which he

14 expressed a desire... '92". (Quoted). Is that correct, Mr.

15 Murphy?

16 A. Yes.

1 802 Q. So you are saying after the Circuit decision the February

18 meetings took place?

19 A. I am not sure what date the --

2 803 Q. March 1994?

21 A. March 1994. Yeah, but --

2 804 Q. Is the statement correct, Mr. Murphy?

23 A. I am not sure of the dates.

2 805 Q. The date is?

25 A. I may be incorrect on the dates of the court case.

2 806 Q. I will read it for you again, Mr. Murphy.

27 .

28 "Subsequent to our appeal of the Circuit decision", the

29 Circuit decision was March of '94, "Mr. Gogarty had a

30 meeting with Mr. Reynolds at which he expressed a desire to

31 meet with me, this meeting took place in the Berkley Court

32 Hotel on the 10th of February of 1992". Are those two

1 sentences incorrect, Mr. Murphy?

2 A. Well, maybe the subsequent to our appeal in the Circuit, I  
3 am not sure of the date, in or around that time. I know I  
4 am certain I met Mr. Gogarty on the 10th and 17th of  
5 February, I am not sure of the dates of the P60's issue, it  
6 was in or around, maybe it wasn't the appeal, maybe it was  
7 the Circuit court proceeding.

807 Q. It is your statement, Mr. Murphy?

9 A. It may be incorrect, that part of it. I am not sure when  
10 those dates were.

1 808 Q. You have already told us --

12 A. It must have been before the Circuit Court rather than the  
13 appeal.

1 809 Q. But you have already told us you attended the Circuit Court  
15 for the hearing of the P60 case which took place in March  
16 of 1994, that's your evidence?

17 A. I did, maybe this part of it is inadvertently incorrect.

1 810 Q. And can we look now at paragraph 22 of your statement, Mr.

19 Murphy, please. And here you are dealing with when you  
20 first met, in effectively the sale of the lands and the  
21 full text reads: "I met Mr. Michael Bailey for the first  
22 time in October of 1992 in circumstances which I will  
23 describe below. I had no dealings with him whatsoever  
24 prior to that time. It is therefore.... With Mr. Bailey  
25 in May or early June of 1989. I was not involved in any  
26 discussions in relation to the possible sale of lands owned  
27 by the Group to Michael Bailey in May of 1989.

28 .

29 My father told me that Mr. Gogarty had been seeking to  
30 persuade him to sell the lands which are now the subject of  
31 the Tribunal's investigations ... For the land and that he  
32 had ultimately agreed with Mr. Gogarty's suggestion to sell

1     them. While I was somewhat surprised at that decision, I  
2     accepted it as I had no involvement whatsoever with the  
3     land owning companies. Some months later I raised the  
4     matter with Mr. Gogarty.... Commission on the sale, at  
5     which he flew into a rage and shouted at me. He said words  
6     to the effect he would make me pay for my comment ... And  
7     get me back". (Quoted)?

8     A. He said that in AGSE's offices in Fleetwood earlier in the  
9     year.

10    811 Q. There you were surprised at the decision to sale the lands?

11    A. I went through that, surprised it was sometime previous to  
12    the Christmas of the previous year, October/November time  
13    my father said he would let the lands lie, and this was the  
14    next discussion. I was surprised Mr. Gogarty had persuaded  
15    him to change his mind, yes.

16    812 Q. That's the only context in which you say that?

17    A. That's correct.

18    813 Q. I thought you said you had no objection to your father  
19    selling the land?

20    A. I had no objection to him selling the land. The surprise  
21    was Mr. Gogarty had changed his mind because of, the  
22    previous year he said he was going to let them lie.

23    814 Q. And Mr. Ahern of course has given evidence that you were  
24    against the sale of the lands, that you had said that to  
25    him?

26    A. That's completely untrue.

27    815 Q. Now, you also told us, and it is only a very small thing,  
28    Mr. Murphy, that when you were speaking to Mr. Gogarty on  
29    the 24th of June of 1994 you did not use what's been  
30    described here as the "F words"?

31    A. I did not use it, no.

32    816 Q. You heard Detective Garda McEneaney this morning say he



1       overheard the conversation and both parties used the F  
2       word?

3    A. I heard that.

817 Q. He wasn't cross-examined by counsel on your behalf that he  
5       was incorrect in his recollection?

6    A. That's correct.

818 Q. Are you now saying you did so address?

8    A. I didn't use the F word, I think Mr. Gogarty described me  
9       as an F'ing bastard. I said "I am not an F'ing bastard" or  
10       "don't call me an F'ing bastard".

1 819 Q. So I can get that clear, are you saying you did use the F  
12       word now?

13   A. I may well have said "don't call me an F'ing bastard", I  
14       did not use it on him.

1 820 Q. Right, you didn't correct any word of that nature?

16   A. I didn't call Mr. Gogarty an F'ing bastard, I may have  
17       said, "don't call", or "I am not an F'ing bastard". It was  
18       "don't call me an F'ing bastard", some words like that.

1 821 Q. You don't contest Detective Garda McEneaney's evidence this  
20       morning in anyway, do you?

21   A. No, I don't think --

2 822 Q. One other matter I wanted to raise with you; the  
23       allegations that had been in the newspapers in 1996 and  
24       1997, various amounts of money had been referred to; isn't  
25       that right?

26   A. That may be the case, yes.

2 823 Q. Various figures, 40, 60 and 80 had been referred to?

28   A. Yes.

2 824 Q. And the words "cheques" and "cash" had been used; isn't  
30       that right?

31   A. That's correct, yes.

3 825 Q. But when you were conducting your inquiry in relation to

1 whether a payment had been made to Mr. Ray Burke you sought  
2 only whether or not there was a cheque in the sum of  
3 £40,000?

4 A. That's correct, yes.

826 Q. Why did you not make any inquiry as to whether there might  
6 have been a cheque and cash?

7 A. As I say the article had to be taken in total, and I knew  
8 at that stage that Mr. Gogarty was putting me at the  
9 meeting and I knew I wasn't there, was taking the whole  
10 thing in totality.

1 827 Q. So that you were always satisfied in your own mind that the  
12 only inquiry you had to make was a cheque for £40,000?

13 A. Yes, hindsight is a great thing.

1 828 Q. And you weren't concerned to conduct an investigation that  
15 would be anyway broader, that might for example be looking  
16 for cash of any amount?

17 A. I conducted that search after the 1st of July of 1997,  
18 thorough check.

1 829 Q. And I think you said that when you spoke to Mr. Ahern on  
20 the 10th of September you said to him that JMSE had  
21 probably paid the money to Mr. Ray Burke?

22 A. That, it looks like it or something like that.

2 830 Q. Mr. Burke had, of course, made a statement on the 7th of  
24 August of 1997 in which he admitted that he had received  
25 £30,000 from JMSE?

26 A. He had, yes.

2 831 Q. So how was this new information for Mr. Ahern?

28 A. Because I was getting back to him on my earlier  
29 conversations, I wanted to clear up the matter, because I  
30 had told him the information I had at the time and I  
31 availed of, he made contact with me and I used that  
32 opportunity to clear the matter up.

832 Q. So you used that opportunity to tell Mr. Ahern that JMSE

2 had probably paid £30,000 to Mr. Ray Burke?

3 A. That it looked like that, yes.

833 Q. And Mr. Ray Burke had made a statement to that effect, a

5 public statement that was circulated in the newspaper on

6 the 7th of August?

7 A. That's correct.

834 Q. So you think this was still new information for Mr. Ahern?

9 A. It was information that I wanted to convey to him, because

10 the earlier information was all I had at the time.

1 835 Q. You said that you weren't directly involved in the

12 negotiations for Mr. Gogarty's pension but you were at the

13 meeting between your father and Mr. Gogarty in May of 1989?

14 A. In the Bonnington, yeah.

1 836 Q. And in relation to the inquiries that you made post your

16 discussions with Mr. Ahern, can you just confirm to me, who

17 was the accountant or bookkeeper in JMSE at that time in

18 1997?

19 A. John Maher.

2 837 Q. And did you require Mr. Maher to conduct a thorough

21 investigation of the 1989 accounts?

22 A. When? In what period?

2 838 Q. Well, let's say first of all before May of 1997?

24 A. No, I would have asked Frank Reynolds to have a look at the

25 cheque journal, before that he may well have gone to John

26 Maher and asked him for the cheque journal.

2 839 Q. I presume that if you had asked Mr. Maher to prepare a

28 report on all transactions and payments for June of 1989,

29 as your employee he would have done so?

30 A. Yes, but I was dealing through Frank Reynolds.

3 840 Q. Yes, and if you had asked Mr. Frank Reynolds to ask Mr.

32 Maher to prepare a report for you in relation to all

1 payments or transactions in JMSE in June of 1989?

2 A. This is all ifs and buts, Ms. Dillon. Hindsight is a great  
3 thing.

841 Q. He is your employee, if you had made that request of Mr.  
5 Reynolds to pass on to Mr. Maher, it would have been  
6 carried out?

7 A. It is all ifs and buts, I asked Mr. Reynolds to check the  
8 cheque journal, he had to go to Mr. Maher as the  
9 accountant. He looked at the journal. As we knew the  
10 story was totally incorrect, I was not at the meeting.  
11 That was the investigating we did at the time. I was  
12 dealing through Mr. Reynolds, the rest is all ifs and buts  
13 and speculations.

1 842 Q. I will rephrase the question for you, seeing as you haven't  
15 answered the question. The question is this; Mr. Maher is  
16 your employee; is that correct?

17 A. That's correct.

1 843 Q. Mr. Frank Reynolds is also your employee; is that correct?

19 A. That's correct.

2 844 Q. If Mr. Maher or Mr. Reynolds had received a direction from  
21 you for a report on all payments in JMSE in June of 1989  
22 would they have followed that request or not?

23 A. Yes.

2 845 Q. No such request was made?

25 A. No.

2 846 Q. Thank you. Can I ask you now in relation to the letter  
27 that Mr. Cooney put to you of a request for information  
28 dated the 13th of August of 1997 to Mr. Denis McArdle.  
29 This letter was put, it is in the black book of Mr.  
30 Cooney's documents that's in front of you, Mr. Murphy, it  
31 is the third tab from the end. The letter has been  
32 opened, I don't propose opening it again. It is dated the

1 13th of August of 1997. I simply want to know what  
2 response was received to that letter?

3 A. I don't think that there was any formal response from Mr.  
4 McArdle on that, I am not aware of any anyway. I would  
5 have to check with the, my solicitors, but I am not aware  
6 of any formal response from Mr. McArdle  
7 .

8 MR. HERBERT: There was none, Mr. Chairman.  
9 .

1 847 Q. MS. DILLON: So I understand from your evidence that you  
11 accept that the following persons were involved in the  
12 transaction in June of 1989, Mr. Denis McArdle?

13 A. Sorry, in what transaction?

1 848 Q. The transaction for the £30,000 payment to Mr. Ray Burke?

15 A. No.

1 849 Q. You do not accept that Mr. McArdle was involved?

17 A. Absolutely not, Mr. McArdle in his statement has said that  
18 he didn't know anything about it, he was purely requested  
19 to return the --  
20 .

21 CHAIRMAN: I think that question would be better phrased,  
22 "the persons not involved". "Involved" suggests active  
23 participation, concerned, maybe perfectly concerned.  
24 .

2 850 Q. MS. DILLON: Yes. Can I put it like this; the employees  
26 or the independent contractors of JMSE who participated to  
27 some degree or another in the transaction, whether  
28 financial or otherwise, were according to your evidence,  
29 Mr. Frank Reynolds; is that correct?

30 A. Sorry?

3 851 Q. Did Mr. Frank Reynolds go to the bank for the money?

32 A. I don't know.

852 Q. All right. Mr. Roger Copsey?

2 A. Did he go to the bank for the money?

853 Q. No, had he any involvement in the transaction at all?

4 A. He requested, initially requested a sum of £30,000 for Jim  
5 Gogarty.

854 Q. The question, Mr. Murphy, is whether or not they were  
7 involved in anyway in the transaction. You have been quite  
8 happy to --

9 A. No, they weren't, no. I think that they will give evidence  
10 here that they knew nothing about the transaction with Mr.  
11 Burke.

1 855 Q. Mr. Cooney put a series of documents to you, as a result of  
13 which he asked you to draw certain conclusions, it is  
14 apparent you had no difficulty in doing that from that  
15 document. In the light of that evidence I am now  
16 suggesting to - can you now tell the Tribunal whether or  
17 not in your opinion any of the following people had any  
18 participation, be it great or small, in the transaction?

19 A. To Mr. Burke?

2 856 Q. In the transaction that's presently being inquired into,  
21 the financial transaction, and I am doing so in the light  
22 of the evidence that you have given as to the conclusion  
23 that you feel in a position to draw from the documents Mr.  
24 Cooney put to you and in no other circumstances.  
25 .

26 MR. CUSH: I wonder, Mr. Chairman, before Mr. Murphy  
27 answers that question might I make an objection to the way  
28 the question is phrased, because I think what Ms. Dillon  
29 wants is a list of people who she says either participated  
30 big or small, in what she describes as "the transaction".  
31 Now, the Tribunal has heard time and again of who the  
32 people were who had an involvement, a participation, but

1 the distinction which the question does not seek to draw  
2 and which I think, I respectfully submit is unfair for that  
3 reason, is witting or unwitting the transaction Ms. Dillon  
4 describes as the payment to Mr. Burke.

5 .

6 Now, if Mr. McArdle were in a position to give evidence we  
7 know what evidence he would give, and others as well, it  
8 has all been gone over in detail. What this question now  
9 seeks as a very wrap up at the end is a list of people with  
10 no more than that. In my respectful submission that's  
11 unfair, this has been already covered in detail.

12 .

1 857 Q. MS. DILLON: I am perfectly entitled to put this question,

14 Sir. I am particularly entitled to put it in the light of  
15 the conclusions Mr. Cooney asks this witness to draw from  
16 the sequence of documents I already introduced in evidence,  
17 each of which indicate the degree of participation or  
18 otherwise certain persons may or may not have had. The  
19 witness appears to be reluctant to answer this question. I  
20 am happy to use the witting or unwitting, if that makes Mr.  
21 Cush or the witness more comfortable.

22 .

23 Simply in the light of Mr. Cooney's dealing with this  
24 witness, trying to ascertain the persons whom this witness  
25 accepts had an involvement, witting or unwitting, in the  
26 transaction?

27 A. I am not reluctant to answer any questions, I reject that.

2 858 Q. Very good. I will ask you the question again, I am going

29 to give you a list of a number of people and I am going to  
30 ask you do you accept these persons had an involvement or  
31 degree of perhaps in the financial transaction which  
32 culminated in the payments to Mr. Ray Burke in June of

1 1998, these persons are either employees, former or  
2 present, of your companies or they are independent  
3 contractors associated with your companies. And the  
4 persons are as follows: Mr. James Gogarty?

5 A. Yes.

859 Q. Mr. Roger Copsey?

7 A. Yes, partly.

860 Q. Yes. Mr. Frank Reynolds?

9 A. I don't know.

1 861 Q. Mr. Tim O'Keeffe?

11 A. Yes.

1 862 Q. Mr. Denis McArdle?

13 A. No, and I think it is absolutely a disgrace and totally  
14 unprofessional of you to you bring his name up in this  
15 matter.

16 .

17 CHAIRMAN: It is not a matter for you to comment, Mr.

18 Burke, answer the - yes, Mr. Murphy, answer the question.

19 A. No, no, no.

2 863 Q. MS. DILLON: Insofar as I understand your evidence, Mr.

21 Murphy, you were not there in 1989?

22 A. I had no hand, act or part in that transaction.

23 .

24 CHAIRMAN: The answer is "no".

2 864 Q. MS. DILLON: And therefore insofar as you were being asked

26 to draw conclusions about documents this afternoon, those  
27 conclusions are based entirely upon your own perusal of the  
28 documents; is that correct?

29 A. After the event.

3 865 Q. And you have no direct knowledge or inference, or either,

31 that you wish to put before the Tribunal in relation to the  
32 events of June of 1989?



1 A. No.

866 Q. Other than the evidence you have already given?

3 A. Correct.

867 Q. Has JMSE sued Mr. Gogarty for the return of this money?

5 A. We have taken legal advice on that.

868 Q. That's not the question I asked, Mr. Murphy.

7 A. No.

869 Q. You haven't?

9 A. No.

1 870 Q. When was the first time that JMSE went public with a  
11 statement that Mr. James Gogarty was acting without  
12 authorization insofar as he had made, if he had made any  
13 payment to Mr. Ray Burke?

14 A. I don't know if we ever went public with a statement.

1 871 Q. I understood you to say in reply to a question from Mr.  
16 Callanan yesterday that you had been in contact with the  
17 media in mid-1997, August, September of 1997?

18 A. I hadn't been in contact with the media, no.

1 872 Q. But your company or somebody on behalf of your company?

20 A. Mr. Morrissey was retained on a PR basis, I think he may  
21 have talked to Mr. Connolly on one occasion, maybe two  
22 occasions, I am not sure.

2 873 Q. You referred in your evidence yesterday to letters to the  
24 media?

25 A. Letters to the media in certain actions.

2 874 Q. You were talking about --

27 A. Defamation actions.

2 875 Q. You are not talking about letters putting forward --

29 A. No, these are all letters in relation to defamation  
30 actions.

3 876 Q. So do you have any idea when at all, when it was first  
32 indicated by JMSE that if this payment had been made by Mr.

1 Gogarty it was made in a totally unauthorised fashion?

2 A. In the public?

877 Q. Yes?

4 A. I don't know when it came into the public first, I don't

5 know, I don't think we actually made a statement.

878 Q. Was that, when this Tribunal commenced public hearings in

7 January of this year?

8 A. That may well have been the case, I think that in our

9 statement, yes events overtook it, and then the Tribunal

10 came along, I think we made our statements then in 1998 and

11 we accepted it, that the money had come out of JMSE to this

12 Tribunal.

1 879 Q. These are your statements in December of 1998?

14 A. Yes.

1 880 Q. To the Tribunal. But I am asking you insofar as publicly

16 did JMSE ever take --

17 A. No, we were advised I think at the time that the forum to

18 hear all of this was the Tribunal.

1 881 Q. Yes, and the one person that has, that you knew had been

20 present at this meeting, there were two people you knew

21 were present at the meeting, one was Mr. Gogarty, you never

22 sought to speak to Mr. Gogarty in relation to what

23 transpired at that meeting; is that correct?

24 A. No, relations had totally broken down.

2 882 Q. And on the occasions upon which you met and spoke with Mr.

26 Michael Bailey, you never raised the subject about what

27 happened in Mr. Ray Burke's house in June of 1989?

28 A. No, I have given that in evidence.

2 883 Q. And your explanation for that, I think, was that you didn't

30 believe that the allegations were true and therefore you

31 didn't need to deal with the matter?

32 A. No, I have given evidence that on the occasion that I met

1 him in, I think October, November, it died down, I was  
2 guarded, I didn't know Mr. Bailey's relationship with Mr.  
3 Gogarty or his relationship with Mr. Burke. The purpose of  
4 that meeting was not to meet Mr. Bailey, it was to meet Mr.  
5 Gogarty. I did not discuss it with him.

884 Q. And did you ever meet Mr. Tom Bailey?

7 A. I met him on the 12th, whatever day this Tribunal started  
8 here. He may have been at the arbitration, but I have no  
9 memory of him being there. He certainly didn't given  
10 evidence, but I was introduced to him the first day this  
11 Tribunal started up this year, never met him before that.

1 885 Q. Did Mr. Frank Reynolds know either of the Mr. Baileys?

13 A. Well, Mr. Reynolds I think had met Michael Bailey in 1990  
14 in the Swiss Cottage, and I think that he lives out near  
15 Tom Bailey, I think he bumps into him regularly, yes.

1 886 Q. And insofar as Mr. Bailey picked up the phone to you and  
17 said "look, I am going to try and organise a reconciliation  
18 between yourself and Mr. Gogarty", and you went to the  
19 meeting when matters subsequently blew up in the newspapers  
20 in 1997, you didn't consider it appropriate to pick up the  
21 phone and ring Mr. Bailey and say "what happened"?

22 A. No, I didn't know Mr. Bailey.

2 887 Q. All right. Thank you Mr. Burke. No further questions.

24 .

25 CHAIRPERSON: Mr. Mohan?

26 .

27 MR. MOHAN: Mr. Chairman, what I have to say is more  
28 properly dealt with by way of submission, but I can do it  
29 through you, Mr. Chairman. I have two points to make in  
30 relation to this transcript.

31 .

32 MR. CUSH: Can Mr. Murphy stand down?

1 .

2 CHAIRMAN: I beg your pardon, Mr. Murphy. Certainly of  
3 course. That concludes Mr. Murphy's evidence before the  
4 Tribunal, is that right? Thank you very much, Mr.  
5 Murphy.

6 A. You are welcome, Sir.

7 .

8 THE WITNESS THEN WITHDREW

9 .

10 MR. MOHAN: I would welcome an opportunity for you to take  
11 a look at the actual programme itself, because if I --

12 .

13 CHAIRMAN: Let's find out if there is any document that --

14 .

15 MR. HERBERT: No, Sir, but not for reasons that My Friend  
16 is going to address you but --

17 .

18 MR. MOHAN: At this stage may I make these points, and to  
19 use Mr. Murphy's word the "spin" that has been put out by  
20 Mr. Cooney would --

21 .

22 MR. HERBERT: I object to this. You, yourself, have ruled

23 --

24 .

25 CHAIRMAN: Wait now, I will look at the transcript, not at  
26 the transcript, at the tape and I will not look at the  
27 transcript contemporaneously, I will look at the tape and  
28 see what was said and make my own mind up about it.

29 .

30 MR. MOHAN: In that context I want to make these two  
31 submissions briefly.

32 .

1 MR. HERBERT: Sir, My Friend can make his submissions at  
2 the time we all come to make our submissions, we can't have  
3 his submissions now.

4 .

5 MR. MOHAN: I have asked for the opportunity to make two  
6 points now in context of what Mr. Cooney --

7 .

8 MR. HERBERT: No, the time will come.

9 .

10 CHAIRMAN: Let's hear what the points are and see whether  
11 they can be dealt with or not.

12 .

13 MR. MOHAN: The first point is clearly this; the question  
14 put by Mr. Bowman, "did you ask the motive for the  
15 donation?".

16 .

17 CHAIRMAN: That's part and parcel of the text.

18 .

19 MR. HERBERT: Mr. Chairman - My Friend is --

20 .

21 MR. MOHAN: Mr. Herbert has done nothing but -

22 .

23 CHAIRMAN: Gentlemen, this must not become a scene where  
24 we are trying to shout each other down.

25 .

26 MR. HERBERT: I regret to think My Friend is putting a  
27 version of events to you - your duty, and whether it is  
28 hostile to what Mr. Cooney has said or in favour of what he  
29 has said, and you make your own mind up, I don't think My  
30 Friend one way or another should try to influence what you  
31 are going to say or try to get something on the record of  
32 this Tribunal which might influence that or have influence

1 on other people.

2 .

3 I think he should stop now and you will allow him to make

4 his submissions in due course.

5 .

6 MR. MOHAN: Mr. Chairman, Mr. Cooney has done nothing but

7 do what Mr. Herbert objects to all afternoon, he put on the

8 record --

9 .

10 CHAIRMAN: That's the first point you made, give me the

11 second point.

12 .

13 MR. MOHAN: No, the two points I want to make are points

14 which are appropos what Mr. Cooney said about the

15 transcript. Mr. Cooney has done little else all afternoon

16 but make submissions in this regard, it was he who raised

17 it. It was he who gave his own comment in that regard, I

18 want two matters put on the record. The first is that the

19 statement, I will tell you why, because Mr. Murphy I

20 understand, I haven't spoken to him since, clearly reverts

21 back to the question "did you", "the motive for the

22 donation", clearly referred to the question he was going to

23 ask and more importantly, to the second point, much more

24 importantly, the question was put to Mr. Ahern, that these

25 phone calls had taken place and that the record would

26 disclose them. We now know from today, and it is my

27 submission, that in fact the actual records disclose that

28 the account kept by Mr. Murphy is seriously at odds and

29 inaccurate in relation to the records, therefore Mr.

30 Murphy's own record of it is in inaccurate. Mr. Ahern in

31 reply to the question said: "I do not recall having a

32 conversation". He went on to say: "At no time did Mr.

1 Murphy ever tell him that the £30,000 had come from

2 JMSE".

3 .

4 That's the point which he didn't resile from at any point

5 and that he stands by absolutely, because he didn't tell

6 him about it and they are the points, two points.

7 .

8 CHAIRPERSON: Thank you. We will --

9 .

10 MS. DILLON: We have seven witnesses for tomorrow. I was

11 going to suggest, seeing as they are travelling from the

12 country, 11 o'clock.

13 .

14 CHAIRMAN: Sounds like a good idea for a different

15 reason.

16 .

17 MS. DILLON: I anticipate they will be out of here in an

18 hour and a half.

19 .

20 MR. MOHAN: They are not witnesses which affect Mr. Ahern,

21 as I understand?

22 .

23 CHAIRMAN: No, no. Thank you for your attendance, Mr.

24 Mohan.

25 .

26 MS. DILLON: 11 o'clock.

27 .

28 THE HEARING THEN ADJOURNED FOR THE DAY UNTIL THE 9TH

29 DECEMBER, 1999, AT 11 AM.

30

31

32