

1 THE TRIBUNAL THEN RESUMED AS FOLLOWS ON THE 9TH OF
2 NOVEMBER, 2001, AT 10:30 A.M.:

3 .

4 CHAIRMAN: Good morning everyone.

5 .

6 MS. DILLON: Good morning, Sir.

7 .

8 We appear to be having some slight difficulty for a
9 moment, Sir, with the screens.

10 .

11 CHAIRMAN: Would you like to --

12 .

13 MS. DILLON: I think Mr. Lynn can cure it very quickly.

14 .

15 CHAIRMAN: Would you like me to raise for ten minutes?

16 .

17 MS. DILLON: I think we are all right, thank you.

18 .

19 CHAIRMAN: Whatever you want.

20 .

21 MS. DILLON: Mr. Burke, please.

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1 MR. RAPHAEL BURKE, HAVING BEEN PREVIOUSLY SWORN,
2 RETURNS TO THE WITNESS-BOX AND IS EXAMINED BY
3 MS. DILLON AS FOLLOWS:

4 .

5 1 Q. MS. DILLON: You are already sworn, Mr. Burke.

6 A. That's right, yes.

7 2 Q. Mr. Burke, just so that we know where we are going
8 today, I propose to take you through your Dail
9 Statement, the statement you made on the 7th of August,
10 1997; through your evidence on Day 69; your
11 cross-examination, through your counsel, of Mr. Brennan
12 and Mr. McGowan on Day 144; your disclosure in June of
13 2000 to the Tribunal of the existence of the Isle of
14 Man Kalabracki account; and the correspondence
15 surrounding that.

16 .

17 Do you have any difficulty with any of that?

18 A. Well, I didn't catch it all, I am afraid. You went
19 fairly fast for me.

20 .

21 Mr. Chairman, I have no difficulty with whatever the
22 Tribunal want to ask. I am here to cooperate, in
23 whichever order, but I am sure you will give a list of
24 the items to my counsel, and I can get it from --

25 3 Q. No, I won't, Mr. Burke.

26 A. No, a list of the questions, what you have just read
27 out. Sorry.

28 4 Q. No - I mean, I am just indicating to you, Mr. Burke,
29 where we are, what the evidence is we are going to be
30 dealing with today.

1 A. Oh, yes. Fair enough.

2 5 Q. I don't propose either supplying you, or your counsel,
3 with a list of any description, but I will be taking
4 you through your own evidence, with which I am sure you
5 are completely familiar, having previously sworn to the
6 truth of it.

7 A. Mr. Chairman, I am here to cooperate as much as I
8 possibly can. The Counsel for the Tribunal just read
9 out a list of things which she said she was going to
10 bring me through. I got through writing down the first
11 one. Whatever she wants to ask me, I have no
12 difficulty in, and I will reply as much as I can. It
13 was merely for the convenience of herself and myself,
14 that I said if she could repeat the list by giving it
15 to the counsel. I don't want to get into controversy
16 at the start of this, Mr. Chairman. It is a matter of
17 insignificance to me.

18 .

19 CHAIRMAN: Just a moment. This matter can be solved in
20 a very simple way. The actual list is on the screen --

21 .

22 MS. DILLON: That is no the complete list.

23 .

24 CHAIRMAN: The outline.

25 .

26 MS. DILLON: That is not the complete outline either,
27 Sir. So, just insofar as the evidence is concerned
28 this morning, they are approximately the areas with
29 which we will be dealing, Sir. Simply, in ease of Mr.
30 Burke, I wanted to indicate to him the areas that would

1 be canvassed this morning, so that he could mentally
2 prepare himself in respect of those areas. If Mr.
3 Burke requires me to repeat the list, I will of course
4 repeat the list. It is not exhaustive or exclusive.
5 .

6 CHAIRMAN: Isn't the simple way to deal with this, we
7 can get a copy from the transcript and give it to him?
8 It is an outline only. That is all.
9 .

10 6 Q. MS. DILLON: An outline.

11 .
12 The first thing, Mr. Burke, I would like to deal with
13 you in sequence, because it seems to come in sequence
14 in relation to the matter, is that prior to you making
15 your original statement on the 7th of August, 1997, you
16 disposed of a large amount of documentation, isn't that
17 right?

18 A. I got this morning a copy from the Tribunal of an
19 account from a company, Shred It, in June of 1997. If
20 I may explain that to you, Mr. Chairman. I just saw it
21 this morning for the first time.

22 .
23 After every General Election, it was my policy to start
24 afresh with constituency files. I dealt with many
25 constituency matters, on behalf of thousands of people
26 between elections. It was always my policy to start it
27 afresh after each General Election. That is what I did
28 in 1997. In the old days I would have burnt them, but
29 technology moved on and they were merely destroyed.

30 7 Q. Right. So if we can go back and - I think we will

1 progress things much better and much faster, Mr. Burke,
2 if you answer the question that you are asked. If you
3 want to expand upon it, of course you are entitled to
4 do so.

5 .
6 It is the position that you destroyed 2.2 hundred
7 weight of paper in or around June of 1997?

8 A. Yes.

9 8 Q. Right. Now, can you indicate to the Sole Member of the
10 Tribunal, whether amongst that documentation might have
11 been included any of your records, either in relation
12 to the Isle of Man Bank or the Chase Bank, or indeed
13 any of the bank statements that may have been forwarded
14 to you in connection with Bruton Street?

15 A. There would be nothing like that, Mr. Chairman. They
16 were constituency files that I just outlined to you.

17 9 Q. So is it the position then, that so far as
18 documentation is concerned, there was no financial
19 documentation belonging to you destroyed in June of
20 1997?

21 A. There would have been none. They would have been
22 constituency files for the previous four years.

23 10 Q. So that insofar as you might have been unable to
24 procure any documentation, in relation to the Kalabraki
25 account in the Isle of Man, the source of its
26 destruction would not have been that disposal of 2.2
27 hundred weight of paper in June of 1997?

28 A. June of 1997 was after the General Election,
29 Mr. Chairman. I told you what the circumstances were.
30 The existence of this Tribunal wasn't even a glint in

1 anybody's eye at that stage until, I think it was
2 established in November, and I retired and resigned in
3 October of '97. There was --

4 11 Q. I am simply trying to eliminate, Mr. Burke, from the
5 possibility that the absence of records in relation to
6 the Isle of Man might have been attributable to the
7 destruction of documents that took place on your
8 instructions in June of 1997. And you have now said
9 that insofar as those documents were destroyed, they
10 would not have included any financial records?

11 A. That's correct.

12 12 Q. They were limited to constituency files and matters
13 such as that sort?

14 A. That is precisely it.

15 13 Q. It was your normal practice, as I understood your
16 address to the Sole Member, that post most elections,
17 you would have a cleanout of your documentation and
18 dispose or destroy of the documentation?

19 A. In my answer to the Chairman, I clarified that
20 situation.

21 14 Q. Yes. Is it the position that this is the first
22 occasion upon which you retained Shred It to provide
23 that function for you?

24 A. I am not sure. I may have had them before in '92. I
25 am not one hundred percent sure. But every election,
26 they would have been destroyed. In that particular
27 election, obviously, it was Shred It. Maybe in '92 it
28 may have been the same, I am not one hundred percent
29 sure.

30 15 Q. You would be aware, of course, Mr. Burke, from the list

1 of cheques and returned cheques that you have provided
2 to the Tribunal, that the only payment to Shred It,
3 arises in June of 1997. In fact, the payment took
4 place on the 1st of August, of 1997. Isn't that right?

5 A. Yes, the work was done in June. They would have sent
6 me an account. I would have paid for it. When the
7 account came through in July, I would have paid for it
8 at the beginning of August.

9 16 Q. Yes.

10 A. If that is what the records shows, that is what the
11 record shows. I said technology moved on. I would
12 have burnt them in normal circumstances in previous
13 years. In that year I obviously used the company,
14 Shred It.

15 17 Q. Yes. And the documents are described in the invoice
16 that was furnished to you as "confidential documents"?

17 A. They would be. They would be. The constituency files
18 of individuals in my constituency, who would have been
19 in touch with me about social welfare problems, housing
20 problems, various miscellaneous problems that people
21 would come to talk to me about, and for the security of
22 my constituents, they would be destroyed rather than
23 just dumped. It was always safer to destroy these
24 documents.

25 18 Q. Yes. And the documents that were destroyed related
26 only to constituency matters and no other?

27 A. Well, they would be constituency related matters, and
28 the vast bulk of them would be constituency files, the
29 files of individual constituents. There could have
30 been some Cumann files, or calls of meetings, or that

1 type of thing, going back over the previous term of the
2 Dail from '92 to '97. That is the sort of procedure
3 that would be followed after every election. I always
4 started afresh after a General Election and moved again
5 with another set of files.

6 19 Q. What was the date of the election in '97?

7 A. The date of the election was in the middle of June.

8 20 Q. Wasn't it the 15th of June?

9 A. Yes.

10 21 Q. You destroyed these documents on the 11th of June,
11 1997?

12 A. Well, it would have been the wrap-up of the campaign,
13 that would be the end of it, that we would be just
14 finishing off the campaign, things would have been
15 destroyed.

16 22 Q. Document 5253, please.

17 .

18 You see, the election hadn't concluded, Mr. Burke.
19 Because I understand that the actual vote or election
20 was on the 15th of June, of 1997. I may be incorrect
21 in that, but this is recorded, anyway, as having
22 occurred on the 11th of June, isn't that right?

23 A. If that is what the record shows, that is what the
24 record shows. There is no great mystery in it.

25 23 Q. What was in accordance with your normal practice - what
26 I want to establish, is that insofar as you conducted
27 this exercise in June of 1997, it did not include any
28 personal documents of yours?

29 A. No, they would have been as the documents that I have
30 just outlined.

1 24 Q. So, is it the position --

2 A. Everything of that nature is a personal document to me,
3 but that is it. But there would be nothing else.

4 25 Q. If we take it in stages. Would it have included any
5 bank records, for example?

6 A. No.

7 26 Q. Would it have included any documentation in relation -
8 any diaries?

9 A. No.

10 27 Q. Would it have included any notes or records you might
11 have made of meetings with people who were other than
12 your constituents?

13 A. People who would have come to me about political
14 matters, constituency matters, they are the records. I
15 don't want to delay you by repeating it, Mr. Chairman.
16 They would be the records that would have come in to my
17 office, people, phone calls, notes that I would have
18 met of people that I - in doing my normal constituency
19 work. That is what would be destroyed.

20 28 Q. For what period of time would these records relate to,
21 Mr. Burke?

22 A. They would go back to the previous General Election.
23 That's - as I have outlined, Mr. Chairman, the
24 situation to you, at - each General Election I would
25 start afresh with the new period ahead, and open up new
26 files for everybody that came in, for a simple - for
27 simple convenience of masses of paper.

28 29 Q. So the point, Mr. Burke, is that in so far as they
29 dealt with your political life, was that part of your
30 political life confined to deal with your constituents,

1 and the documentary trial in connection with them, such
2 as people who required your assistance in relation to
3 housing, or required your assistance in relation to
4 dealing with the Departments, the various Government
5 Departments, the normal paperwork of a TD's practice?

6 A. Precisely.

7 30 Q. It would not have included records or matters such as
8 political donations that were made to you, or any lists
9 or records or notes of documents you might have had
10 about any monies that might have been paid to you, by
11 any of your supporters in the previous four years?

12 A. No, it wouldn't. I have just told you what it would
13 be.

14 31 Q. So, if we move on, then, from that.

15 .

16 On the 7th of August, of 1997, you issued a public
17 press statement which you subsequently read into the
18 record of the Dail, isn't that right?

19 A. That's correct, yes.

20 32 Q. Do you have a copy of your - of what you said to the
21 Dail?

22 A. I have, yes.

23 33 Q. I only want to direct your attention to a few things.

24 In fact, Mr. Hanratty previously addressed your
25 attention to a few matters, but I think, in view of how
26 matters have developed, it is probably important that
27 we revisit it.

28 .

29 In your Dail Statement on the 10th of September, 1997,
30 you read into the record the statement that you had

1 issued on the 7th of August, of 1997. You will find it
2 at column 617.

3 A. Yes.

4 34 Q. I just wonder, can we get this on screen?

5 .

6 If you see there on the screen, you have the hard copy
7 in front of you, Mr. Burke, you set out at column 617
8 of that debate what you had said in a press statement
9 that you had issued on the 7th of August of 1997?

10 A. Yes.

11 35 Q. Right. And at the end of the statement, you went on to
12 make a personal statement in the Dail yourself, isn't
13 that right?

14 A. That's correct.

15 36 Q. And if we move down to the bottom of column 618, we see
16 that you say: "As regards the contribution, ú30,000 is
17 the largest contribution I have received during any
18 election campaign, either before or since 1989"?

19 A. That's correct.

20 37 Q. If we move on through the statement, you will see that
21 you said, in reply to Mr. Alan Shatter, at column 622,
22 you described the Gogarty contribution as an
23 "exceptional contribution". The top of column 622.

24 A. That's correct, yes.

25 38 Q. If you move on to column 623, you will see you said
26 again, in reply to Mr. Shatter, that you had never
27 received a larger contribution dealing with the
28 contribution of ú30,000. Do you see that at the bottom
29 of 623?

30 A. That's correct, yes.

1 39 Q. And if we move on through the statement, you were asked
2 by Deputy Spring at column 628 - Mr. Spring said,
3 "It may be helpful to the Minister to take this
4 opportunity to clarify to the House whether he received
5 any other sizable contributions during election
6 campaigns from similar companies or the building
7 industry?"

8 .
9 And in reply to that you said, at the top of column
10 629, "I am here to answer questions on the ú30,000
11 contribution. I have never received a larger
12 contribution and will not get into the question of
13 other contributions, which I have received."

14 A. That's correct.

15 40 Q. Right. So, it is clear, and I think you have agreed
16 previously in this Tribunal, Mr. Burke, that there were
17 a number of errors contained in that statement that you
18 made to the Dail, and that insofar as you said, ú30,000
19 was the largest contribution you had ever received.
20 You were in error in relation to that?

21 A. Yes.

22 41 Q. And it appears that you had been in receipt, at the end
23 of May of 1989, of a payment of ú35,000 from Oliver
24 Barry which has been the subject matter of inquiry
25 here?

26 A. That's correct.

27 42 Q. In addition, you had also been, as it now appears to be
28 the position, in receipt of a payment of ú50,000 from a
29 company called Kalabraki Limited, and ú60,000 in
30 November, 1984, from a company called Canio Limited?

1 A. My understanding of those contributions, Mr. Chairman,
2 was that they were not from one individual, but they
3 were larger, undoubtedly - made up of a number of
4 contributions of fundraising. So we will undoubtedly
5 come to this later on. But the composition of this, I
6 wouldn't have been aware of at the time.

7 43 Q. Mm-hmm. You then gave evidence to the Tribunal, in
8 what has become known as the Gogarty Module, and the
9 question of overseas accounts, Mr. Burke, was touched
10 on briefly by Mr. Gallagher, when he was dealing with
11 you in connection with some element of your finances.

12 .
13 At question 15, on Day 69, the issue of Jersey was
14 dealt with. And if we start at question 18 - we will
15 get you a copy. Do you have a copy of Day 69?

16 A. I have a copy. If you just bear with me.

17 .
18 MR. WALSH: Could we have the date of that?

19 .
20 44 Q. MS. DILLON: Day 69. It is the 9th of July, 1999.

21 .
22 Now, you will recollect, Mr. Burke, that when you
23 attended --

24 A. Excuse me, Mr. Chairman, if you just bear with me a
25 moment while I tidy up this stuff.

26 45 Q. Do you want me to give you a copy of Day 69?

27 A. I have it - I think I have the relevant part of it.

28 .
29 MR. WALSH: Sorry, Sir, might I just make the point in
30 part in terms of context. I don't wish to halt or in

1 any way delay matters. There was a private meeting
2 held before that on the 7th of May 1999. I was
3 wondering, is Ms. Dillon going to put these questions
4 in the context of what was discussed at the private
5 meeting?

6 .
7 MS. DILLON: I hadn't intended to because it was a
8 private meeting. I can review that, if there is no
9 objection from Mr. Walsh in relation to my dealing with
10 it. I can deal with that later on this morning, if it
11 is required. I don't think any issue arises in
12 relation to it.

13 .
14 MR. WALSH: One other point of correction, Sir. We
15 have left the topic at the moment. On the question of
16 the General Election of 1997, I have made inquiries,
17 and the date - the polling date was, in fact, the 6th
18 of June, 1997.

19 46 Q. I have no difficulty did with that.

20 .
21 CHAIRMAN: Would you remind repeating that?

22 .
23 MR. WALSH: The polling date was the 6th of June, not
24 the 16th. So it was prior to the shredding.

25 .
26 47 Q. MS. DILLON: That is fine. Do you have the document
27 Mr. Burke?

28 A. I have 36, I have part of 69. I think it is the
29 relevant part. If there was a different sheet - it is
30 page 36, 37, 38 and along like that. I don't know

1 which page you are going to ask me about.

2 48 Q. On page 38 at question 18, Mr. Gallagher was taking you

3 through the Dail statement we have just looked at. And

4 at question 18 Mr. Gallagher says:

5 .

6 "Mr. Burke, on paragraph 635 you said, as part of your

7 answer in the centre of the page, 'In fairness to the

8 member of the House, I have tried to be fair and

9 reasonable and up-front with information. I have no

10 overseas bank account.' Is that an accurate

11 statement."

12 .

13 You replied:

14 .

15 "I had no overseas bank account statement in 1997 when

16 I answered that question. I had an overseas bank

17 account on a previous occasion opened in 1984, in which

18 there were two lodgements."

19 .

20 And then at question 19: "Mr. Burke --

21 The answer from you: "Well, Mr. Chairman, I have been

22 asked had I an overseas bank account, and I am

23 entitled, I believe, with your permission --

24 The Chairman: Answer the question as you want.

25 Answer: I had an overseas account in 199 - opened in

26 1984 with two lodgements, and this account was held in

27 Jersey on my behalf. I was the beneficial owner of the

28 account. It was funds raised in the UK on my behalf,

29 political funds. There were two lodgements, one of

30 35,000 and one of 60,000 in 1984. There was one

1 further lodgement in 1985, which was really a contra
2 entry. 15,000 was taken out and about a week later was
3 put back in. I was going to use it in Local Elections
4 in 1985. I decided I wouldn't require it. I put it
5 back in, that account was closed during the period the
6 end of November, from November on of '83, '93, and it
7 was finally closed in '94. The funds were deposited,
8 the political fund was deposited in Ireland and remains
9 on deposit to this day. There were no deposits into
10 that account from '85, from April of '85 on. And I
11 confirm that the sum in the account at the time of this
12 Tribunal, in Book 3 and Book 2 documents that were
13 provided for me, was ú67,620.78. That was the sum.
14 That sum with interest was brought back to Ireland.
15 And the total in my accounts when I resigned from
16 public life in political funds was ú118,000, which is
17 not my money, which is there to this day and has to be
18 distributed on the basis of the best professional
19 advice I can get. But I will not be benefitting from
20 one penny of it."

21 .

22 At question 20 Mr. Gallagher says:

23 .

24 "Question: In relation to that money, can you indicate
25 that sum of ú118,000 that you refer to?

26 Answer: That sum of ú118,000?

27 21: Does any part of it come from or relate back to,
28 the monies you received from Mr. Gogarty?

29 Answer: It does. Some of it was still on, unspent."

30 .

1 Do you see that, Mr. Burke?

2 A. I do, yes.

3 49 Q. Now, you had two overseas bank accounts, isn't that
4 right?

5 A. I had this particular account. I had the account in
6 Jersey, which had been closed well before that, with
7 the 35 being transferred out of it into the - I had an
8 account in the Isle of Man, which had been transferred
9 from - 35 of it had been transferred, which is the
10 lodgement that is talked about there, into Jersey.

11 That's the situation.

12 .

13 I then discovered the documentation on that and brought
14 it to the attention of the Tribunal immediately.

15 50 Q. We will just take it in stages. The question was: You
16 had two overseas bank accounts?

17 A. It turns out, Mr. Chairman, that through my bank in
18 Whitehall, through the Bank of Ireland in Whitehall, we
19 have since discovered a subsidiary account in my name
20 done through the Bank of Ireland in Whitehall in
21 Manchester in 1974, and closed in 1977. It was linked
22 to my business account. And the money was brought
23 back. It is about ú14,000. Out and back.

24 51 Q. We will come to deal - this is the "plic" account and
25 all of that. We will deal with that.

26 A. It is what account?

27 52 Q. The question that I asked you, and it is a simple
28 question, if we could have a simple answer to it, was
29 it the position that you had two overseas bank
30 accounts, one in Jersey, and one in the Isle of Man,

1 between 1980 and 1990?

2 A. The period I was dealing with here was from 1984, and
3 the previous account had been in 1982.

4 53 Q. When you answered the question that Mr. Gallagher asked
5 you, on the 9th of July, 1999, you said you had an
6 overseas bank account?

7 A. Yes.

8 54 Q. Right. And into that bank account you described two
9 payments being made, one of 35, and one ever 60?

10 A. Yes.

11 55 Q. And a contra entry of ú15,000. Isn't that right?

12 A. That's correct.

13 56 Q. Now, that contra entry of ú15,000, you reaffirmed in
14 your evidence on Day 245 and 246, was, in fact, a
15 relodgement of monies that you had withdrawn, isn't
16 that right?

17 A. And I was mistaken on it, and sent a letter of apology
18 to the Chairman about it and corrected it at the first
19 available opportunity.

20 57 Q. But that is the ú15,000 that you were talking about on
21 Day 969, isn't that right?

22 A. That's the ú15,000.

23 58 Q. And the ú35,000 that you are talking about on Day 69 is
24 the opening lodgement for the Hill Samuel, Caviar
25 Limited account in April of 1985?

26 A. In April of 1984, that's right. That's correct.

27 59 Q. And the ú60,000 that you are talking about with
28 Mr. Gallagher is the ú60,000 Canio payment in November
29 of 1984?

30 A. Yes, which I understood to be fundraising from

1 Mr. McGowan, yes.

2 60 Q. Well, we will come to deal with your understanding of
3 all of that in a moment.

4 .

5 As far as you were giving this evidence on Day 69, it
6 would appear to be the position, that you said that the
7 two lodgements, or one could take from the answer that
8 you gave that the two lodgements of 35 and 60 were as a
9 result of political funds raised on your behalf in the
10 United Kingdom?

11 A. That was my understanding, yes.

12 61 Q. And it was your understanding, when you gave the
13 evidence on the 9th of July, 1999, that the ú35,000 and
14 the ú60,000, were funds that had been raised for you
15 through the fundraising activities of Messrs. Brennan
16 and McGowan?

17 A. No, I would have been aware that the 35 came out of a
18 previous account, but I hadn't got the details of it.
19 I eventually found the details of the 50,000 in Jersey,
20 or in the Isle of Man. As soon as I got it, I sent it
21 off to the Tribunal.

22 62 Q. Yes. Well, in so as far as you were giving evidence
23 about the ú35,000, Mr. Burke.

24 A. Yes.

25 63 Q. It was your evidence, on Day 69, that that sum of
26 ú35,000, that lodgement to the account of Caviar
27 Limited in April of 1984, was as a result of
28 fundraising activities?

29 A. Which had taken place previously, which had been lodged
30 in the Isle of Man out of the 50,000.

1 64 Q. Yet, why, if that is the position, Mr. Burke, did you
2 not elect to tell Mr. Gallagher or qualify your answer
3 in any way on Day 69 about the €35,000?

4 A. Because I was talking about the Jersey account, which
5 was the trace, the trail of the money on the 118. And
6 if you recall, and you have obviously researched this,
7 there was considerable controversy as to whether I
8 would be allowed to make any reference to the overseas
9 account at all, that day. And it was really after Mr.
10 Gallagher giving me the opportunity, unintentionally, I
11 think, to answer, to put in the information about the
12 funds that were there, that I answered the question.

13 65 Q. Yes. You had prepared your financial records, Mr.
14 Burke, prior to giving evidence on Day 69. You had
15 furnished those records, and you had attended at a
16 meeting at the offices of the Tribunal. And Mr.
17 Finnegan, I think, was representing you on that
18 occasion. You sought from the Chairman, at question
19 19, an opportunity to answer the question and to deal
20 with the matter. Presumably, I would suggest, Mr.
21 Burke, that is correct? If you felt you weren't
22 adequately briefed to deal with it, you wouldn't have
23 attempted to answer the question?

24 A. I answered the question as I had been asked, and that's
25 the situation.

26 66 Q. And you said, in relation to the €35,000, which you now
27 say was a transfer from the Kalabraki account in the
28 Isle of Man, you said, in relation to the account, "I
29 was the beneficial owner of the account, it was funds
30 raised in the UK on my behalf, political funds. There

1 were two lodgements, one of 35, one of 60 in 1984.

2 There was one further lodgement in 1985, which was

3 really a contra entry."

4 A. That's correct.

5 67 Q. Right. So was it your belief, when you gave evidence

6 on Day 69, that the ú35,000 was not a transfer from

7 another bank, but was the result of fundraising

8 activities, as you stated?

9 A. It was a lodgement that was made at that time, coming

10 from the ú50,000 which had been lodged in the Isle of

11 Man account, and that has been shown to be correct

12 since.

13 68 Q. Presumably you knew, Mr. Burke, if that is the case,

14 presumably you knew that the ú35,000 came from the Isle

15 of Man and from the Kalabraki account?

16 A. We were talking about the Jersey account, which was the

17 period of debate at the time of Mr. Gogarty's module,

18 which was when I was here at that time.

19 69 Q. In fact, there is nothing in the transcript, Mr. Burke,

20 with the greatest of respect to you, to indicate that

21 the questioning was limited to the Jersey account.

22 A. No, but we were talking about Mr. Gogarty's, the

23 Gogarty Module at the time.

24 70 Q. And a payment that occurred in 1989, isn't that

25 correct, and a statement you had made to the Dail in

26 September of 1997, isn't that correct?

27 A. That's right.

28 71 Q. In the course of which you had said, as of the 10th of

29 September, 1997, "I have no overseas bank account"?

30 A. And I hadn't at that time.

1 72 Q. And that is correct, you didn't. And Mr. Gallagher
2 then asked you a question as to whether that was an
3 accurate statement. And you wanted to expand on it,
4 and were offered an opportunity to expand on it by the
5 Sole Member?

6 A. Yes.

7 73 Q. Isn't that right?

8 A. That's correct.

9 74 Q. Right. And in answering that question, you disclosed
10 in evidence the existence of a single overseas account
11 in the name of Caviar Limited. Isn't that right?

12 A. That's correct.

13 75 Q. Right. You did not disclose to the Tribunal the
14 existence of an Isle of Man account?

15 A. When I had --

16 76 Q. In Allied Irish Banks - if you just allow me to finish,
17 Mr. Burke. You did not disclose to the Tribunal the
18 existence of an account in the Allied Irish Banks in
19 the Isle of Man into which ú50,000 had been lodged in
20 December 1982 by Kalabraki?

21 A. When I got the details of that account, I immediately
22 brought it to the attention of the Tribunal.

23 77 Q. Did you disclose, on Day 69, the existence of an
24 account held for your benefit under the name of PD
25 Burke in the Isle of Man into which ú50,000 was lodged
26 in December 1982?

27 A. No, in the - what I did was talk about the Jersey
28 account, which was the relevant account during the
29 Gogarty Module.

30 78 Q. Had you received any indication from either the Sole

- 1 Member or Counsel to the Tribunal, that they were
2 limiting their questions in any way to an account in
3 Jersey?
- 4 A. No, we were talking about the Gogarty Module at that
5 stage.
- 6 79 Q. The question you had been asked was in connection with
7 overseas bank account?
- 8 A. That's right.
- 9 80 Q. And the person who elected to give the evidence in
10 connection with the Caviar Limited account only was
11 yourself, Mr. Burke, isn't that right?
- 12 A. That's correct.
- 13 81 Q. Right. Now, insofar as you said on Day 69, that the
14 ú35,000 was as a result of fundraising?
- 15 A. No, what I said was that there were two lodgements.
- 16 82 Q. Yes?
- 17 A. Yes.
- 18 83 Q. And you said --
- 19 A. One of 35 and one of 60 in 1984.
- 20 84 Q. Yes. You had said, immediately preceding that
21 sentence, Mr. Burke, "It was funds raised on my behalf,
22 political funds"?
- 23 A. It was my understanding of the 50 and the 60.
- 24 85 Q. Of the 50 and the 60?
- 25 A. That's correct.
- 26 86 Q. Why were we talking about 35 on Day 69, Mr. Burke?
- 27 A. I was talking about the account in Jersey.
- 28 87 Q. Yes. Was it your understanding on Day 69, Mr. Burke,
29 that the ú35,000 was, in fact, a transfer of funds from
30 an Isle of Man account held in your name?

1 A. I knew it was a transfer of funds held in the Isle of
2 Man, but I hadn't got the details of it. It was when
3 the details of the account became available to me, that
4 I immediately made them available to the Tribunal.

5 88 Q. Yes, because you also told the Tribunal, on the same
6 occasion, and in answer to the same question, that the
7 ú15,000 that was paid in April of 1985 was, in fact, a
8 contra of an earlier withdrawal?

9 A. And that was my understanding of it, and remained my
10 understanding, when I was in this box here, resulting
11 from investigations that I carried out and that the
12 Tribunal team carried out. We eventually discovered
13 that my memory had played tricks on me in relation to
14 it, and that I was - felt bound immediately to issue a
15 letter of clarification to the Chairman, which I did.

16 89 Q. Yes. The sequence of events in connection with that,
17 Mr. Burke, was that the Tribunal obtained documentation
18 from Messrs. Bedell & Cristin, including the client
19 account records of Caviar Limited, your company, which
20 did not disclose the sum of ú60,000 passing through
21 that account, or a sum of ú15,000 passing through that
22 account, as one would have expected to find had the
23 money been routed in that fashion. You had previously
24 given evidence that you had handed ú15,000 in cash to
25 Mr. Wheeler, those documents were then furnished to
26 your solicitor, and following further investigations
27 that were carried out, both by your solicitor and by
28 the Tribunal, you wrote to the Sole Member, I think on
29 the 12th of March of this year, indicating that you
30 were incorrect in your recollection in relation to the

1 ú15,000. But leaving all of that aside for the moment.

2 A. Sorry, Mr. Chairman, just about leaving all of that
3 aside. I think there has been one statement that I
4 would like to clarify in relation to it; that the
5 documentation never showed the transfer of the 60,000
6 coming through Bedell & Cristin. If I heard you
7 correctly --

8 90 Q. Through the client account of Caviar Limited, Mr.
9 Burke, not - I didn't say not through Bedell & Cristin,
10 I said from the Bedell & Cristin records of the client
11 account of your company.

12 A. Yes.

13 91 Q. Right. That's all I said.

14 A. Yes, but I had at all times, and we had great
15 controversy here in cross-examination with Mr.
16 Hanratty, I had at all times had said that it didn't
17 come from the client account, that it went into - from
18 Bedell & Cristin into Caviar. The suggestion was being
19 made by Mr. Hanratty, was that it was my own money or
20 that somebody had handed it me, that I gave it to
21 Bedell & Cristin and that it went on. That was
22 incorrect. I clarified it and the documentation
23 actually proved that I was correct. As far as the 15
24 was concerned, I was incorrect, and did a clarification
25 of it, as soon as the information become available.

26 92 Q. If we can go back now to the issue that we were dealing
27 with, Mr. Burke, which is not that particular sequence
28 of events, which we will be coming to as well.

29 .

30 What you said on Day 69, because it is clear you made

1 one serious error on Day 69, in that you had sworn on
2 that occasion that the sum of ú15,000 was a contra
3 entry. As you have now admitted, that was incorrect?

4 A. Not that I now admitted. I corrected that, as soon as
5 the documentation that assisted me in the - that was
6 carried out by my own solicitors, and by the Tribunal,
7 I was - I immediately corrected the situation with the
8 Chairman.

9 93 Q. Yes. Insofar as the question is concerned, Mr. Burke,
10 if we can try and address our minds to that.

11 .

12 The question was: When you swore to the Tribunal that
13 the ú15,000 was a contra entry, you were incorrect in
14 your recollection in relation to that?

15 A. -- point given, yes.

16 94 Q. Now, if we move on to look at the ú35,000, which you
17 have told the Tribunal on Day 69 were funds raised in
18 the UK on your behalf, political funds. Isn't that
19 what you said in question 19?

20 A. They were out of the 50,000.

21 95 Q. Out of the ú50,000, but you did not disclose to the
22 Tribunal --

23 A. We were talking about the Jersey account.

24 96 Q. You were talking about the Jersey account?

25 A. I was talking about the Jersey account. I was talking
26 about it under considerable pressure that day, because
27 there was a question of being allowed even getting the
28 details of the Jersey account at that stage.

29 97 Q. Yes, you were anxious, apparently, it is clear from a
30 reading of the transcript, to set the record straight?

1 A. I was particularly anxious to set the record straight,
2 in relation to the salient and very important fact,
3 that my political funds at the end of the time that I
4 resigned had in that political fund €118,000, which
5 remains there to this day, gaining interest.

6 98 Q. You have told - I don't wish to cut you off, Mr. Burke,
7 but I stopped counting after 50 the times you have told
8 the Sole Member about that €118,000. If you wish to
9 keep repeating it on the basis that the Sole Member
10 doesn't understand the point you are making, it is a
11 matter for yourself.

12 .
13 You may take it that the Sole Member understands the
14 point that you have made about the €118,000.

15 .
16 Now, if we go back to the question, Mr. Burke, which
17 deals with the €35,000. You did not indicate, on Day
18 69, to the Tribunal that that €35,000 had a source
19 other than fundraising in London, isn't that correct?

20 A. That's correct. I said that it had - it was from
21 fundraising and that is correct. When I got the
22 details of the account in the Isle of Man, I
23 immediately made it available to the Tribunal.

24 99 Q. Yes. But was it your belief, then, on Day 69, that
25 the €35,000 and the 60 were the same type of fund, that
26 they had in fact come into the account from the same
27 source?

28 A. Which they did come from the same source. The 35 came
29 out of the same source as the - out of the 50, which
30 was the same source as the 60, which was my

1 understanding had been fundraising done on my behalf by
2 Mr. McGowan and - Brennan and McGowan.

3 100 Q. All right. We will take it like this. You didn't
4 disclose on Day 69 the existence of the Allied Irish
5 Banks (Isle of Man) account or the Kalabraki account as
6 it is called?

7 A. Well, I wasn't aware of the name "Kalabraki" until it
8 became available to me. Then I sent it in to the
9 Tribunal.

10 101 Q. You didn't disclose on Day 69 the existence of an
11 Allied Irish Banks (Isle of Man) account held for your
12 benefit?

13 A. At that stage, no, because I was dealing with the
14 Gogarty Module period.

15 102 Q. Yes. You did not differentiate in your answer, on
16 question 19, between the €60,000 and the €35,000 and
17 the source of those monies, isn't that right?

18 A. There was no reason to differentiate it. It was the
19 same source.

20 103 Q. But if the money had been the subject matter of a
21 rerouting, from the Isle of Man, and you had known that
22 at the time, or that it was your belief at the time,
23 why wouldn't you have told the Sole Member?

24 A. Well, as I told you, this was a very fast, pressurised
25 situation that morning of trying to just get the
26 information onto the record about the basis of the
27 €118,000.

28 104 Q. Yes. I mean, your concern was to deal with the
29 question that you were being asked, which was the
30 question of overseas bank accounts?

- 1 A. And was to deal with my funding generally.
- 2 105 Q. Yes. And your overseas bank accounts, because that, in
3 fact, was the question that you were being asked about?
- 4 A. Yes, and the fact that I had brought this money back
5 from the overseas - and that it is still there.
- 6 106 Q. It is in an account, and that you are dealing with the
7 Revenue, and in the fullness of time you will tell the
8 Sole Member - yes, Mr. Burke, it is on the transcript
9 time without number. We really don't need to deal with
10 it. If we could go back to your view of the ú35,000 on
11 Day 69?
- 12 A. Yes.
- 13 107 Q. You told the Sole Member, on Day 69, that there were
14 two lodgements into the Caviar account, one of ú35,000,
15 and one of ú60,000. You didn't differentiate as to the
16 sources of the lodgements, isn't that right?
- 17 A. I told the Sole Member that it was funds raised in the
18 UK on my behalf, political funds, and that is the -
19 that's correct.
- 20 108 Q. And you appear to be treating, Mr. Burke, in your
21 answer, the 35 and the 60 as being the same type of
22 money?
- 23 A. Which they were.
- 24 109 Q. Yes?
- 25 A. But one had been transferred from the - a larger sum of
26 50. That is the only difference.
- 27 110 Q. But at that stage you hadn't disclosed, had you, the
28 existence of the Isle of Man bank account?
- 29 A. I hadn't been asked about the Isle of Man bank account,
30 I hadn't been asked about the Jersey account either,

1 the lump sum. I was giving a trail of the backtracking
2 from the 118 to the source in Jersey.

3 111 Q. Yes. But insofar as you were talking about foreign
4 bank accounts, the only foreign bank account you were
5 talking about, Mr. Burke, was Caviar Limited?

6 A. That was the central one from which the fund of 118,000
7 was coming from.

8 112 Q. Yes.

9 A. The main part of it.

10 113 Q. You identified a sum of ú35,000, in the same breath as
11 a sum of ú60,000, as being the result of funds raised
12 in the UK on your behalf?

13 A. That's correct.

14 114 Q. And you didn't indicate to the Sole Member, that in
15 fact while the ú60,000 was a direct payment into the
16 Caviar account, that the ú35,000 had, in fact, been, on
17 your evidence, rerouted from an account held for the
18 benefit, for your benefit in the Isle of Man?

19 A. That's correct, because I hadn't got the details of
20 that account at that time. I got them later.

21 115 Q. Did you believe at the time that you were giving this
22 evidence on Day 69, that the ú35,000 was, in fact, a
23 sum that had been rerouted from the Allied Irish Banks?

24 A. I knew it had been rerouted, but what I was giving was
25 the source of the fund that was back in Ireland which
26 was the 118,000.

27 116 Q. Yes. Did you believe, when you were talking about the
28 ú35,000, that the place from which the 35 had been
29 rerouted was not this country?

30 A. I beg your pardon. Sorry?

1 117 Q. In other words, did you believe or did you know, on Day
2 69, when you were talking about the ú35,000, that it,
3 in fact, was a rerouting of monies from Allied Irish
4 Banks?

5 A. No, it was - it was money transferred from the Isle of
6 Man account to the Jersey account, through Bruton
7 Street, the 35 of the 39.

8 118 Q. Where did you identify it to the Sole Member as being
9 similar to or in the same breath as when you were
10 dealing with the ú60,000?

11 A. Because it was from the same money, it was from the
12 same type of fundraising, the 50,000. What I was doing
13 in that evidence that I was giving to the Chairman,
14 that day, was tracing back the ú118,000 fund that was
15 remaining there. That was what I was giving him, the
16 details of it. When I got the details of the balance
17 of the information, I made it available to the Chairman
18 straightaway.

19 119 Q. You see, your counsel, in cross-examining on Day 144,
20 which was Mr. Brennan and Mr. McGowan's first evidence
21 to the Tribunal, put it to them, on Day 144, that you
22 got two payments in England in 1984, in November '84
23 and April of '84, 60,000 and ú35,000. He said, "That's
24 what he says he got."

25 A. And?

26 120 Q. Yes. And that would be consistent, would it not, Mr.
27 Burke with your evidence on Day 69?

28 A. That matter has been clarified on a number of occasions
29 by my Senior Counsel to the Tribunal in relation to his
30 use of the word "payments and lodgements". He used the

1 word "payment." In actual fact, I used the word
2 "lodgement," which was correct. And I think Mr. Walsh
3 has clarified that with you, Mr. Chairman, on a number
4 of occasions here in the Tribunal.

5 121 Q. Yes, but if you look at what Mr. Walsh put in
6 conjunction with what you said on Day 69, Mr. Burke,
7 you look at what you said on Day 69:

8 .
9 "I was the beneficial owner of the account. It was
10 funds raised in the UK on my behalf, political funds.
11 There were two lodgements, one of 35 and one of 60 in
12 1984."

13 .
14 Then you go on to talk about the 15. If you look at
15 what Mr. Walsh said, on Day 144, which was the 14th of
16 April, 2000, Mr. Walsh said:

17 .
18 "Now, Mr. McGowan, you may not be aware of this, but
19 Mr. Burke got two payments in England in 1984, one in
20 April, and the other in November. One was for ú35,000,
21 and the other was for ú60,000, which came from the
22 political fund you had organised for him in England."

23 A. Yes.

24 122 Q. He says, "I didn't think it was that amount."

25 Mr. Walsh says "Yes."

26 .
27 At question 51: "That is what he says he got, that is
28 what the bank records show, that was obviously the
29 accumulation you referred to back in 1983/84?"

30 Answer: I didn't think it was that amount."

1 .
2 That is what Mr. Walsh said. The difference between
3 the two pieces of evidence is that you used the word
4 "lodgements" and Mr. Walsh used the word "payments"?

5 A. As I said, I used the word "lodgement" because it was
6 the correct word. And my understanding is that
7 Mr. Walsh has clarified this matter on various
8 occasions as to the position in relation to it, and the
9 fact that he was incorrect in his use of the word
10 "payment", that has been clarified on various
11 occasions. I can't go over it again, here again.

12 123 Q. I am afraid you will have to, Mr. Burke, because the
13 issue is not - the issue is not the use of the word
14 "payment". We can refer to them as lodgements. There
15 is no difficulty, if that makes you happier. The issue
16 is the identification of two sums of money as being
17 received from political payments. You give that
18 evidence on Day 69. The two amounts you identify are
19 60 and 35. Whether Mr. Walsh referred to lodgements,
20 or he referred to payments, what he does identify are
21 two amounts, which are the same amounts that you had
22 earlier identified on Day 69. And Mr. Walsh does not
23 put, to either Mr. Brennan or Mr. McGowan, that there
24 was a payment of ú50,000 from Kalabraki.

25 A. Well, first of all, as far as the name Kalabraki is
26 concerned, I had no knowledge of it at the time. As
27 far as the - putting the question to Mr. McGowan, he
28 was talking about the - it is to Mr. McGowan, yes, to
29 35 and 60 being two lodgements, that is exactly what
30 the Jersey account shows. There is no difference in

1 that whatsoever.

2 .

3 The 35 came out of the 39, which had been transferred
4 from the Isle of Man and then on to Jersey. That has
5 been accepted by the, as I understand it, by the AIB at
6 this stage.

7 124 Q. If you just listen to the question, Mr. Burke, and try
8 and answer the question that you are asked, and stop
9 making speeches. We will progress much better, Mr.
10 Burke, if you stop making speeches.

11 .

12 You gave evidence on Day 69 identify --

13 A. Mr. Chairman, I am here to cooperate as much as I can.

14 I am trying to be as helpful to you as I can, Mr.

15 Chairman, in your information. I have been getting
16 speeches from the counsel here as well. I will try and
17 answer as accurately as I possibly can the points that
18 are put to me. I don't want any controversy here. I
19 am here to be as helpful as I possibly can, but I am
20 not here to take snide remarks from anybody.

21 125 Q. Very good, Mr. Burke. Now, if you could be helpful in
22 answering the question that I asked you, which is this:
23 On Day 69 you identified two payments, ú35,000 and
24 ú60,000, which you identified as being lodged to an
25 account in Jersey. Mr. Burke, Mr. Walsh in
26 cross-examining on the 14th of April, 2000, identified
27 the same two lodgements, 35 and ú60,000. In neither
28 case, did either of you refer to the ú50,000 that had
29 been paid by Kalabraki to you in the Isle of Man in
30 1982. Isn't that correct?

1 A. That's correct, and Mr. Walsh had raised the question
2 that the two lodgements were made in 1984, which is the
3 correct situation. I had nothing to hide in relation
4 to the Isle of Man account, because it was the source
5 of the 35, no problem whatsoever with it.

6 126 Q. Yes. But Mr. Walsh, in cross-examining Mr. McGowan,
7 never put it to Mr. McGowan, that in addition to these
8 two payments or lodgements of 60 and 35, that there was
9 in addition a significant other payment of ú50,000?

10 A. Not a significant other payment. That there was a
11 payment from which the 35 came.

12 127 Q. Yes. If we can go back again. Did you on Day 69
13 indicate to the Tribunal the existence of an account in
14 the Isle of Man into which ú50,000 had been paid?

15 A. No, I was talking about the trace of the, back to the
16 118. That's the situation.

17 128 Q. Did your counsel, when he was cross-examining, on your
18 instructions, Mr. Joseph McGowan, about the payments
19 that Mr. McGowan was meant to have made to you, ever
20 indicate to Mr. McGowan that there was, in addition to
21 the figures that had been discussed, a payment of
22 ú50,000 in December of 1982?

23 A. He was talking about 1984.

24 129 Q. Yes. And the question was, did your counsel, in
25 asking questions of Mr. McGowan, ever put it to
26 Mr. McGowan, that in addition to the figures that were
27 being talked about, there was in addition another
28 payment of ú50,000 in December, 1982?

29 A. For the simple reason, there wasn't another payment of
30 ú50,000 in 1982. There was a payment of ú50,000 in

1 1982, out of which 35 - of the 35 sum that has been
2 referred to there comes. But Mr. Walsh was asking
3 Mr. McGowan about 1984. It was a reference to the
4 Caviar account.

5 130 Q. Did Mr. Walsh ask Mr. McGowan about the ú50,000 that
6 had been paid to you in December, 1982?

7 A. Obviously not.

8 131 Q. Right. Now, when was the first time that you told the
9 Tribunal about the existence of an account in the Isle
10 of Man?

11 A. Just one sec now, and I will get it up for you.

12 132 Q. It is a letter dated the 28th of June, 2000, if that
13 assists you in any way, Mr. Burke?

14 A. If you bear with me one second, I will have it for you
15 now.

16 133 Q. We can give you a copy of the item.

17 A. It is all right. I have it. I have found it. On the
18 28th of June, 2000 --

19 134 Q. Can I ask you, did you prepare that letter?

20 A. It would have been prepared by my solicitors and
21 accountants with myself.

22 135 Q. It seems to have been typed on two different
23 typewriters. If you look at page 7, Mr. Burke, you
24 will see the typescript, which we have become very
25 familiar with, as being Mr. Shannons' typescript. The
26 rest of it seems to have been typed somewhere else?

27 A. I can't answer you about - as I told you, I can't
28 answer you the exact type. I am responsible for a lot
29 of things, but typing isn't one of them. As far as
30 which typewriter is concerned, I think that - a lot of

1 that would have been gone through with my accountant at
2 the time.

3 136 Q. Mr. McNally?

4 A. I beg your pardon?

5 137 Q. Is that Mr. McNally?

6 A. That is the name of the company, yes.

7 138 Q. If you could turn to page 3 of that reply, and I

8 suppose in sequence we should deal with the questions

9 that you were asked before you prepared this reply.

10 And that is the Tribunal's letter to your solicitors -

11 I presume, Mr. Burke, you had a considerable input into

12 this reply in conjunction with your professional

13 advisors?

14 A. I would have helped, obviously, and would have gone

15 through it with my professional advisors.

16 139 Q. The letter to which this is a response is a letter

17 dated the 24th of February, 2000, and we can - do you

18 have that letter, Mr. Burke?

19 A. I have, yes.

20 140 Q. And you will see, if we concentrate on paragraph C --

21 A. Paragraph?

22 141 Q. C?

23 A. C.

24 142 Q. -- of the queries that were raised by the Tribunal on

25 the 24th of February, 2000?

26 A. Yes.

27 143 Q. And this is Caviar Limited's Sterling account, Hill

28 Samuel (Jersey) deposit. The opening balance on this

29 account is furnished to the Tribunal, and appears to be

30 ú77,158. Accumulated interest from 1987 to 1994

1 appears to amount to ú58,000 - we will have a copy of
2 this available to the stenographer.

3 .

4 "At present the Tribunal is inquiring in relation to
5 this account, into the sum of ú77,158 only. Please
6 answer the following specific queries:

7 .

8 "A. Please identify the sources of the opening balance
9 held on the 1st of January, 1987, in the amount of
10 ú77,158.

11 .

12 B. Please furnish a copy of the statements of this
13 account from the date of opening of the account up to
14 the 1st of January, 1987."

15 .

16 I think, in fact, Mr. Burke, what you had furnished
17 were the accounts, the records of the account dating
18 from 1985?

19 A. Which I had been asked for under a Discovery Order from
20 yourself.

21 144 Q. Under a Discovery Order, but you had given it in,
22 strictly in accordance with the Discovery Order, in
23 other words, you had given it from the date you were
24 asked in the Order for Discovery, even though the
25 account had been in existence for a period greater than
26 that, isn't that right?

27 A. Sorry, Mr. Chairman. I was asked by yourself under an
28 Order that you made for Discovery for it, which
29 specified particular dates and particular periods, and
30 I gave Discovery for the particular date.

1 145 Q. I am simply trying to establish the facts of the
2 matter, Mr. Burke?

3 A. I am --

4 146 Q. The opening balance on the account would have been
5 ú35,000, Mr. Burke, isn't that right, because the
6 opening lodgement to this account was ú35,000?

7 A. From the 50, yes.

8 147 Q. The documentation that you supplied to the Tribunal,
9 showed an opening balance of ú77,158?

10 A. On the relevant date.

11 148 Q. On the relevant date.

12 A. Of the Discovery Order.

13 149 Q. Of the Discovery Order, in strict compliance, nobody is
14 criticising you for it, with the Discovery Order. It
15 is that that necessitated these inquiries being made,
16 that it was clear the account had been in existence
17 prior to the date of the Order, isn't that right?

18 A. To me that is logical.

19 150 Q. Yes. So alternatively - but I mean, it is the position
20 that the documentation that you furnished showed
21 clearly an opening balance of 77,158?

22 A. That was the balance on the day of the Discovery Order.
23 That is what it would have shown. I was answering
24 strictly in accordance with the discovery order.

25 151 Q. Paragraph B:

26 .

27 "Please furnish a copy of the statements of this
28 account from the date of opening of the account up to
29 the 1st of January, 1987. Alternatively, your client
30 may wish to furnish a Letter of Authorisation allowing

1 the Tribunal to make these inquiries directly to the
2 bank.

3 .

4 C. Please confirm that this is the only account held
5 outside the jurisdiction in the name of/for the benefit
6 of Ray Burke/Anne Burke or any member of their family
7 or any associated or related company."

8 .

9 You will note there, at "C", Mr. Burke, that there is
10 no time limit on that, isn't that right?

11 A. "Please confirm that this is the only account held
12 outside the jurisdiction in the name of" - that's
13 right, yes.

14 152 Q. You will see similarly at Item D:

15 .

16 "Confirm that there is no other extra-territorial bank
17 account of any sort or nature whatsoever in which
18 Raphael Burke/Anne Burke has any interest, either legal
19 or beneficial."

20 .

21 Then it goes on to deal with specific withdrawals from
22 the Caviar account.

23 .

24 You responded, through your solicitors on the 28th of
25 June, 2000. And if you turn to page 3 of your
26 response, and you will see at paragraph C - I think it
27 is coming up on screen - when you are asked to
28 identify the sources of the opening balance, you
29 identify, and this is the Caviar account, and the
30 opening balance at that stage, according to the

1 documentation, was 77,000, isn't that right?

2 A. That's right, yes.

3 153 Q. And the answer you gave was that the sources are, of
4 the opening balance of ú77,158, was from political
5 donations raised from supporters in the UK, isn't that
6 right?

7 A. That is what it says, yes.

8 154 Q. Did you identify any of those political supporters for
9 the Sole Member?

10 A. They were raised through the Brennan and McGowan
11 sources. I had been specifically excluded from
12 mentioning names when I was in the box in '99, in July
13 of '99, on instructions from the Chairman not to
14 mention names.

15 155 Q. Yes. Did you ever receive any indication in
16 correspondence from the Tribunal that a similar caveat
17 applied in relation to correspondence between the
18 Tribunal and your solicitors?

19 A. No, and I submitted a list of subscribers which
20 indicated Brennan and McGowan, at a later time.

21 156 Q. Yes. The question that you had been asked to answer,
22 in the Tribunal's letter, and indeed in relation to a
23 number of other matters as well, was:
24 "Please identify the sources of the opening balance of
25 77,158?" Would you describe your answer at C,
26 paragraph A in your letter, or your solicitor's letter
27 of the 28th of June as being a full and frank
28 disclosure?

29 A. Yes.

30 157 Q. Did you identify, for example, Mr. Tom Brennan?

1 A. In that reply there, no. But Mr. Brennan's name had
2 been mentioned, Brennan and McGowan generally had been
3 mentioned in previous correspondence.

4 158 Q. Did you mention Mr. Tom Brennan's name --

5 A. There?

6 159 Q. -- as being a source of the money --

7 A. No.

8 160 Q. -- in the Caviar account.

9 A. You then replied to me --

10 161 Q. We will deal with the correspondence in sequence.

11 A. Sorry, Mr. Chairman, I am asked a question and I am
12 trying to reply to it. I am asked a question, did I
13 identify it? I said the source of the opening balance
14 at 77,158 was from political donations raised by
15 supporters in the UK. Six months after I wrote you
16 that letter you then came back to me, and asked me some
17 queries in relation to it. And I wrote to you and said
18 the lodgement came through the fundraising efforts of
19 Joe McGowan and Tom Brennan, and friends, in the UK.
20 So the response was given to you.

21 162 Q. I am asking you these questions, Mr. Burke, in light of
22 your oft stated and oft repeated assertions of full,
23 total and absolute cooperation with this Tribunal.

24 .

25 In the light of those oft stated assertions, how is it
26 that you elected, when you wrote this letter, or had
27 this letter written for you in June of 2000, not to
28 disclose to the Sole Member that the source of these
29 payments was Mr. Brennan and Mr. McGowan?

30 A. But I would have, I am sure - I haven't got the

1 sequence of correspondence here, but I have no doubt
2 that Mr. McGowan's name had been raised with you
3 previously in correspondence. I will check that out
4 before we leave, but I have no doubt that that has been
5 already given prior to the date of this letter of the
6 --

7 163 Q. Of course it had, Mr. Burke, because Mr. McGowan had
8 given evidence in April of 2000, and this letter is
9 being written in June of 2000?

10 A. So you were already aware that this was this source of
11 - I think that was the name involved. So there is no
12 big --

13 164 Q. I don't think that is correct?

14 A. There is nobody hiding anything from you, Mr. Chairman.

15 165 Q. Yes. You identified in response to this question, that
16 the source of the opening balance of that money in the
17 Caviar account was political donations raised by
18 supporters in the United Kingdom?

19 A. Yes. You asked me for a further supplementary, and I
20 responded to you in further correspondence saying that
21 this lodgement came through the fundraising efforts of
22 Joe McGowan and Tom Brennan, and friends, in the UK.

23 166 Q. Yes. And when a more specific question was put to you,
24 I think, and you responded?

25 A. I responded - after your six months delay in replying
26 to mine.

27 167 Q. If you look at paragraph C, subparagraph C you will
28 recollect that there was no time limit on the question
29 that was put to you by the Tribunal in its letter,
30 under inquiry. If you want to go back and look at

1 that.

2 .

3 The Tribunal had asked you in C, paragraph C:

4 "Please confirm this is the only account outside the

5 jurisdiction in the name of/or for the benefit of Ray

6 Burke/Anne Burke, or any member of their family, or any

7 associated or related company."

8 .

9 There is no time limit on it, isn't that right?

10 A. There is no time limit on that, but there is - if you

11 look at the Section A of that letter, of your own, of

12 the 24th of February, "Please confirm whether there is

13 in existence between the period '87-'94 a trust of any

14 kind wherein Raphael Burke or any member of the family

15 is/or was a beneficiary."

16 .

17 Previous to that the question is: "Please confirm that

18 in the period '87-'94 the aforementioned is the

19 complete list?"

20 .

21 The period '87-'94 is the period we are talking about

22 throughout this whole letter.

23 168 Q. Sorry, Mr. Burke, if you just go back to paragraph C,

24 you will see where, in paragraph C, which is the

25 specific Caviar account that we were asked to - did the

26 Tribunal limit its inquiry to between 1987 and 1994?

27 If you would direct your attention - if you could read

28 into the record again, paragraph C, subparagraph C of

29 the Tribunal's inquiry to you?

30 A. I am sure you will read it into the record. I want to

1 just, Mr. Chairman, make the point that in the letter
2 that I have got from you, or from your office, on your
3 behalf, the reference at all times is in the period '87
4 to '94, which was the period that was under debate and
5 under discussion there.

6 169 Q. Yes. But insofar as the specific queries were put to
7 you by the Tribunal in connection with the Caviar
8 Limited account, it is quite clear on a simple reading
9 of the English contained in paragraph C, subparagraph C
10 that there is no time limitation?

11 A. "Please confirm that in the period '87-'94 the
12 aforementioned list is a complete list of all bank
13 accounts, investment accounts, quasi bank accounts, or
14 trusts operated within or outside the jurisdiction
15 by/or for the benefit of Raphael Burke/Anne Burke, or
16 any member of his family."

17 .
18 There is the specific time frame of '87-'94 referring
19 to bank accounts that I was asked about.

20 170 Q. What paragraph number is that, Mr. Burke?

21 A. It is in relation to the - it is Paragraph A1.

22 171 Q. Thank you, Mr. Burke.

23 A. Sorry, Mr. Chairman, may I finish the question?

24 .
25 You had, your people had written out to me. It was
26 signed by, I suppose it would be easier - by a Miss
27 Howard. It is: "I am setting out hereunder a schedule
28 of bank accounts held by your client." Which was done.
29 And then it goes on and it talks about, "Please confirm
30 that in the period '87-'94 the aforementioned is a

1 list, is a complete list of all bank accounts,
2 investment accounts, quasi bank accounts, or trusts
3 operated within or outside the jurisdiction by/or for
4 the benefit of Raphael Burke/Anne Burke, or any member
5 of his family."

6 172 Q. I am sorry, Mr. Burke --

7 A. And "2. Please confirm whether or not there is, or was
8 in existence between the period '87-'94, a trust of any
9 kind wherein Raphael Burke or any member of his family
10 is/was a beneficiary "

11 .

12 It then goes into supplementary things, including
13 Caviar. But the key point was, in the over-all time
14 frame of '87-'94.

15 173 Q. Did you understand - I don't want to - if you
16 misunderstood the letter that was sent, Mr. Burke, that
17 was entirely a separate matter.

18 .

19 Did you understand, insofar as paragraph A of that
20 letter was concerned, that the time limits in paragraph
21 A in some way applied to paragraph C also? Is that
22 what you are telling the Tribunal, that you didn't
23 understand the letter?

24 A. Well, that seems to be the interpretation that was put
25 on it by my own professional people as well.

26 174 Q. I am sorry?

27 A. That --

28 175 Q. I am asking you, Mr. Burke --

29 A. That is the interpretation that was put on the letter.

30 176 Q. Yes. Is it the position that you understood that the

1 Tribunal --

2 .

3 MR. WALSH: Sorry, I just want to make one comment.

4 Sorry, Sir, we are being questioned on paragraph C.

5 Perhaps Mr. Burke would be allowed to read paragraph C

6 in its entirety? It is unfair to suggest to him,

7 without letting him read paragraph C in its entirety,

8 that he has misunderstood the letter. Because this

9 letter is, was written on your instructions, Sir. Its

10 interpretation is there for everybody to see. People

11 may make different interpretations, but if you look at

12 it, very clearly there is a heading. Underneath the

13 heading there is an introductory paragraph ended with

14 ":-", then going on to specific queries. But any

15 reasonable interpretation, in my submission, is that

16 that - the introductory paragraph applies to each of

17 the specific A to E, or whatever it is.

18 .

19 If you read, before you read any of the subsidiary

20 queries, such as paragraph C, you read in the beginning

21 of it, the introductory paragraph; the introductory

22 paragraph clearly talks about a period 1987 to 1994,

23 which is consistent with the time frame that is

24 mentioned at B and C, and in fact, D. That is the

25 point I make. If Mr. Burke --

26 .

27 177 Q. MS. DILLON: Part of the paragraph that Mr. Walsh is

28 referring to, he well understands the point. It refers

29 to accumulated interest in 1987 to 1994. Be that as it

30 may, if Mr. Walsh wants to make that point I will read

1 the letter into the record.

2 .

3 If Mr. Burke was labouring under the delusion that
4 paragraph B and C and D of this letter was in some way
5 confined to the time period 1987 to 1984, then that
6 will be Mr. Burke's evidence.

7 .

8 As requested by your counsel, Mr. Burke, I will read
9 the entire of the paragraph C into the record.

10 .

11 MR. WALSH: Sorry, Sir, I don't want to be rising to my
12 feet unnecessarily, but I think the use of phraseology
13 like "labouring under a delusion" is offensive and
14 inaccurate.

15 .

16 CHAIRMAN: I have no doubt that it was not intended to
17 be offensive or inaccurate. Now, could we just
18 concentrate on the script that is on the screen at the
19 moment. And to avoid any doubt, the script reads, at
20 this moment in time.

21 .

22 Paragraph C, sub paragraph C:

23 .

24 Caviar Limited - Sterling account - Hill Samuel (Jersey
25 deposit).

26 .

27 The opening balance on this account, as furnished to
28 the Tribunal, appears to be ú77,158. The accumulated
29 interest from 1987 to 1994 appears to amount to
30 ú58,596. At present, the Tribunal is inquiring in

1 relation to this account, into the sum of ú77,158
2 only." In other words, the original capital - "please
3 answer the following queries."

4 .

5 Now, that is the premise, you know. You are being
6 asked to answer a series of queries in relation to
7 77,158, which is the sum lodged in Hill Samuel Jersey
8 deposit.

9 .

10 The third question down, is clear.

11 .

12 "Please confirm that this is the only account held
13 outside the jurisdiction in the name of/for the benefit
14 of Ray Burke/Anne Burke, or any member of their family,
15 or any associated or related company."

16 .

17 That is a simple, straightforward question. The answer
18 is either "Yes" or "No". Now, which is it?

19 .

20 178 Q. MS. DILLON: I will refer to the response that was
21 provided to you, Sir, through your solicitor on the
22 28th of June, 2000. The letter having originally been
23 sent on the 24th of February, 2000.

24 .

25 At paragraph C (A), as we have seen, what is stated
26 there is that the sources of the opening balance, of
27 ú77,158 was from political donations raised by
28 supporters in the UK.

29 .

30 "B. We enclose a copy of statements of this account

1 from date of opening to 1st of January, 1987.

2 .

3 C. Client confirms to the best of his knowledge and
4 belief that this is the only account held outside the
5 jurisdiction in the name of/for the benefit of Ray
6 Burke/Anne Burke, or any member of their family, or any
7 associated or related company in the period 1987 to
8 1994.

9 .

10 D. Client confirms to the best of his knowledge and
11 belief that there is no other extra-territorial bank
12 account of any sort whatsoever in which Raphael
13 Burke/Anne Burke has any interest, either legal or
14 beneficial in the period 1987-1994.

15 .

16 Further information in respect of extra-territorial
17 bank accounts in the period prior to 1987 subsequently
18 came to light from the inquiries made addressing the
19 tax submissions to the Revenue Commissioners, and the
20 inquiries from the Tribunal. And we now enclose three
21 statements in respect of call-account number 06472/00
22 with Allied Irish Banks (Isle of Man) Limited.

23 .

24 The initial lodgement of this account of ú50,000 on the
25 21st of December, 1982, was from political donations
26 raised in the UK.

27 .

28 The withdrawal of ú15,000 on the 29th of November,
29 1983, was transferred to AIB, Bruton Street, London per
30 our client's recollection, but we have been unable to

1 obtain confirmation of this.

2 .

3 We refer you to letter enclosed from AIB in relation to
4 queries in respect of AIB, Bruton Street. Our client's
5 best recollection is that the account in AIB, Bruton
6 Street has a current account, and was used in tandem
7 with the AIB Isle of Man Limited number 06472/00.

8 .

9 ú10,000 was relodged to the AIB Isle of Man account on
10 a fixed interest basis on the 9th of December, 1983,
11 from AIB, Bruton Street.

12 .

13 The direct payments of ú1,000, on the 19th of March,
14 1984, ú9,000 on the 23rd of March, 1984" --

15 .

16 Those last two payments were the monies that were paid
17 in Cheltenham, isn't that right, Mr. Burke, the ú9,000
18 and the ú1,000?

19 A. That's right, yes.

20 179 Q. At that time it was your belief, apparently, that they
21 had been paid through Bruton Street?

22 A. No, they were done with Bruton Street. They were done
23 with Mr. McHale in Bruton Street, but they came out of
24 the Isle of Man.

25 180 Q. But they were never, in fact, routed through AIB,
26 Bruton Street, you were paid the money in Cheltenham?

27 A. They were routed through AIB in Bruton Street; to the
28 extent that they were, it was done in Cheltenham with
29 the Bruton Street manager. I wasn't aware that they
30 had a branch in Birmingham dealing with it. It was,

1 rather than Bruton Street, it was the Bruton Street
2 manager that I routed it through.

3 181 Q. I think when Mr. Hanratty dealt this with you before
4 you accepted in relation to that, when you described
5 them as being routed through AIB, Bruton Street, you
6 were, in fact, incorrect because they hadn't, as we
7 have seen, been routed through AIB, Bruton Street?

8 A. The phraseology, in the sense that they were routed
9 through Bruton Street, in the sense that it was there,
10 what's his name? Mr. McHale was the one that I dealt
11 with on it, he was the manager of Bruton Street.

12 182 Q. Yes. The next paragraph says: "On the 17th of April,
13 1984, a direct payment of ú39,948.03 was made to the
14 Allied Irish Banks, Bruton Street account, and from
15 this a sum of ú35,000 was transferred on the 19th of
16 April, 1984, to Hill Samuel & Co. (Jersey). The
17 balance úof 4,948.03 would have been used for on-going
18 political expenses."

19 .
20 Is this the first occasion in which you indicated to
21 the Tribunal that the ú35,000 that was lodged to the
22 Caviar account in April of 1984 was sourced in an
23 account in the Isle of Man?

24 A. It would have been, as far as I know, yes.

25 183 Q. How is it, Mr. Burke, that it took you until June of
26 2000, to identify to the Tribunal the existence of an
27 account in the Isle of Man, of which you must have been
28 aware when you were giving evidence about the 35?

29 A. It was, I have already answered that this morning,
30 Mr. Chairman. The further information in respect of

1 the Isle of Man came through, and I got the precise
2 details, which I made available to you, in response to
3 correspondence that you had sent to me.

4 184 Q. Is it the position, then, that when you were giving
5 evidence on Day 69, that you had forgotten the
6 existence of a payment of ú50,000 in December of 1982?

7 A. I wouldn't have forgotten the existence of it, but the
8 details of it only came available to me, the actual
9 transfers, etc. - I made that available to the Tribunal
10 when I got it, in response to your correspondence.

11 185 Q. Yes. But when you disclosed this in June of 2000,
12 Mr. Burke, isn't it the position that this was the
13 first time that there was any indication to the
14 Tribunal that the ú35,000 opening lodgement to the
15 Caviar account, in fact, emanated from the Isle of Man?

16 A. Because I had only got the Isle of Man statements at
17 that stage. As soon as I got them I made them
18 available to the Tribunal.

19 186 Q. So that when you were giving evidence about the
20 ú35,000, on Day 69, it must have been your view, if you
21 hadn't recollected the Isle of Man account, that that,
22 in fact, was a lodgement from a political donation?

23 A. It wasn't just a question of recollecting the Isle of
24 Man account, I would have been aware of the Isle of Man
25 account. The details of the account, the details that
26 I gave to the Tribunal was to find - to trace back to
27 the 118,000.

28 187 Q. Is it that you didn't recollect the detail of it being
29 a transfer from the Isle of Man to Jersey, when you
30 were talking about the ú35,000 on Day 69?

1 A. No, it wasn't a question of not recollecting that, at
2 all. It was a question of trying to give a brief
3 response under very difficult circumstances at the
4 time, where your colleague, who was sitting in your
5 seat, I think, at that time --

6 188 Q. Yes?

7 A. -- didn't want the, any of this information coming
8 forward. I was also under instructions from the
9 Chairman not to get involved with names of individuals.
10 So it was a matter of giving the information, which was
11 the source of the 118,000 which remained after my
12 political career.

13 189 Q. That was a point that you were very anxious to make,
14 and that you have made repeatedly, Mr. Burke, about the
15 118.
16 .
17 Were you under so much pressure from Mr. Gallagher that
18 you had forgotten the existence of the Isle of Man
19 account?

20 A. No, I hadn't forgotten the existence of it, at all.

21 190 Q. Is it the position, then, and does the Sole Member
22 understand that on Day 69 when you were giving
23 evidence, you elected not to disclose to him the
24 existence of the Isle of Man bank account?

25 A. It wasn't a question of electing or otherwise, it was a
26 question of tracing back to the one account, the Caviar
27 account, which was the source of the funding, which was
28 the key point I was trying to make that day. That
29 remained at the end of my political career, which is
30 still there, by the way.

1 191 Q. Yes. As we now. If you didn't know on Day 69,
2 Mr. Burke, that the 35 was sourced out of the Isle of
3 Man, then you must have believed that the 35 was, in
4 fact, a political donation?

5 A. No, I didn't say that at all. The 35 was a political
6 donation out of the 50.

7 192 Q. I see.

8 A. I was aware that it would have gone through from the
9 Isle of Man, but it was a question of going back
10 further into the full details of the Isle of Man.

11 .

12 MS. DILLON: Yes. I think, Sir, if you wish to take a
13 break, if you would like to take a break at this point,
14 it might be an appropriate time.

15 .

16 CHAIRMAN: I think we should break now for twenty
17 minutes.

18 .

19 10 past 12.

20 .

21 THE TRIBUNAL THEN ADJOURNED FOR A SHORT RECESS AND
22 RESUMED AGAIN AS FOLLOWS:

23 .

24 193 Q. MS. DILLON: I just want to put something to you,
25 Mr. Burke, that your counsel said in his submission to
26 the Sole Member on Day 291, the 18th of September,
27 2001.

28 .

29 You may not have a copy of that particular extract in
30 front of you. I want you to - to refer you to page 54

1 of that submission.

2 .

3 And in the course of that submission Mr. Walsh is
4 seeking to set the record straight in relation to
5 documents, and matters of your cooperation with the
6 Tribunal. And he says at page 54:

7 .

8 "Now, I just want to put the record straight, that
9 since you were established in November" - I should say,
10 Mr. Burke, that he's addressing the Sole Member in
11 relation to this.

12 .

13 "Now, I just want to put the record straight, that
14 since you were established in November of 1997,
15 Mr. Burke has cooperated fully, has made Discovery, and
16 since 1997, in private meetings, in documents, he has
17 given to you, in bank records he has furnished you, and
18 in evidence, he has at all times disclosed from the
19 start the existence of the €50,000, and his knowledge
20 of the fact that it came from some company he knew
21 nothing about, called Kalabraki.

22 .

23 And he acknowledged the existence and the dates and the
24 details of the payment of the €60,000, but he wasn't
25 sure of the actual donor of the money to him. The
26 identity of that donor, being Canio Limited, is
27 something that only recently came to the Flood
28 Tribunal's knowledge, but the sum of money having been
29 received by Mr. Burke and paid to Mr. Burke has been
30 acknowledged by him to you, Sir, since 1997."

1 .
2 That's the full extract from the quotation on the 18th
3 of September, 2001, being Day 291 of the public
4 hearings.
5 .
6 Now, in that Mr. Walsh says that you, Mr. Burke, have
7 disclosed at all times from the start of this Tribunal,
8 which was November 1997, the existence of the €50,000,
9 and your knowledge of the fact that it came from some
10 company that you knew nothing about, called Kalabraki.
11 Is that correct?
12 A. But he is making the point, I think, which is that is
13 the full level of cooperation that I had given to the
14 Tribunal, and an indication of that is that I have
15 signed over twenty different consents, at the request
16 of the Tribunal, for investigation of my accounts, my
17 wife's accounts, my children's accounts. And on one
18 occasion I signed an authority for 97 different
19 financial institutions worldwide into all of my
20 affairs, and all of my possible accounts worldwide.
21 .
22 So he's making the point there, in it, in relation to
23 that contribution. As I read it now, for the first
24 time, is he's making the point that I have cooperated
25 fully at all times with the Tribunal.
26 .
27 I gave the details of the 50,000 account to the
28 Tribunal. As soon as I had the details of it from the
29 Isle of Man I sent it in, and including the word
30 "Kalabraki", the name "Kalabraki". As soon as I saw

1 that, I sent it in as well.

2 194 Q. That happened on the 28th of June, 2000, as we've seen
3 this morning. Isn't that right?

4 A. Whatever the date was.

5 195 Q. 28th of June?

6 A. 28th of June, 2000.

7 196 Q. And what Mr. Walsh is saying to the Sole Member in his
8 submission on the 18th of September, that you had
9 disclosed from the start of the Tribunal the existence
10 of the €50,000, and your knowledge of the fact that it
11 came from some company that you knew nothing about
12 called Kalabraki. And the question I had asked you,
13 was that correct?

14 A. Well, it's correct in the sense that I - as soon as I
15 knew of it, the name "Kalabraki", I sent it in. That's
16 the cooperation level. I couldn't give it to you until
17 I knew about it.

18 197 Q. Is it the position that from the start of this
19 Tribunal, in November - December of 1977, that you
20 disclosed the existence of the Kalabraki account?

21 A. It just seems like '77. It was actually '97. And I
22 submitted the details of it as soon as I had it.

23 198 Q. On the 28th of June, 2000?

24 A. As soon as I got the details.

25 199 Q. So is it position that you disclosed, at the start of
26 this Tribunal, the existence of the Isle of Man account
27 with the €50,000 in it from Kalabraki?

28 A. I was never asked for it at the start of this Tribunal.

29 At the start of this Tribunal, if I can refresh your
30 memory, Mr. Chairman, through you, Mr. Chairman; the

1 situation was that we were dealing purely from 1985. I
2 think the Terms of Reference were some days in the
3 middle of June of 1985. Kalabraki and this account in
4 the Isle of Man was in 1982, closing in 1984 - yeah,
5 '84.

6 200 Q. You said, "I was never asked for it." Is it the
7 position - is it that the Tribunal didn't ask you for
8 this account, so you didn't give it to the Tribunal?
9 Is that what you intend to suggest by your last answer?

10 A. No, I am not intending to suggest anything of the sort.
11 What we were dealing with for the first couple of years
12 of this Tribunal was a period from 1985 on, and I was
13 cooperating in great detail with the number of consents
14 that I just outlined to you, and all other matters in
15 relation to the issues that were under examination at
16 that time.

17 201 Q. It is the position, Mr. Burke, that this Tribunal was
18 established in November 1997. Is that correct?

19 A. October, November, '97, yes.

20 202 Q. And is it also the position that you disclosed for the
21 first time to this Tribunal the existence of this bank
22 account on the 28th of June, 2000?

23 A. That would be the position. But the situation is that
24 the account details only came available to me, and I
25 sent them into you as soon as I got them. The second
26 issue is that at all times, up until around the 2000
27 period, the issues that we were discussing were
28 relevant to the period of '85 on.

29 203 Q. So is it a question of the Tribunal must ask the right
30 question?

1 A. No, it's not that at all. The Tribunal had asked me
2 for Discovery for a period, which I gave them, and it
3 was a question of full cooperation with the Tribunal.

4 204 Q. Yes. But not to the extent that you disclosed until
5 June of 2000 the existence of that bank account?

6 A. In the situation - the situation is, even in relation
7 to that - the disclosure, "disclosure" is the word you
8 want to use. The existence of the details of that bank
9 account was in the period - for a period prior to '87,
10 which was the period which that letter was - I was
11 responding to, was in relation to.

12 205 Q. I think the Sole Member wishes to --

13 .

14 CHAIRMAN: I just want to intervene for one thing, and
15 one thing alone.

16 .

17 It's my recollection, and I stand subject to
18 correction, that the Terms of Reference of the
19 Tribunal, as to the period, was altered in July 1998.
20 And I can't be specific about the date in July, but it
21 can be checked at lunch time. It's quite a simple
22 matter, to check it.

23 .

24 It's my recollection that it was July '98.

25 .

26 MR. WALSH: It's the 15th of July 1998.

27 .

28 CHAIRMAN: Thank you very much. That's what I thought.

29 I don't - I am not intervening in any way, except to -
30 so that the area which we were talking about is clear.

1

2 206 Q. MS. DILLON: Can you recollect, Mr. Burke, or could you

3 assist the Tribunal as to what your income would have

4 been in or around 1982?

5 A. Bear with me one sec now. 1982. 1982. I don't think I

6 have the documents for 1982.

7 207 Q. Yes. I'll hand you an extract from the documentation

8 that has been furnished to the Tribunal by your

9 accountant.

10 A. Maybe I have it. Hold on a sec. I may have it. There

11 is so much documentation. The period '92 to the period

12 '85 is on - I don't think I have it off the top of my

13 head, no. Not that far back.

14 208 Q. I'll hand you a document, Mr. Burke, which I'll get

15 copied and have furnished to your solicitors. They may

16 not have a copy - that was furnished by your

17 accountant.

18

19 If you just hand the copy of the document to Mr. Burke,

20 please. It's a document prepared by your accountants,

21 Mr. Burke.

22 A. Sure.

23 209 Q. You see there is highlighted - you have to hand it back

24 so we can copy it for your solicitors, Mr. Burke, just

25 to look at it. Do you agree that it's correct?

26 A. It was prepared by my accountants. It's probably

27 correct, yeah.

28 210 Q. What does that show your income before taxes being in

29 1982?

30 A. In 1981, '82 or '8-

1 211 Q. '81/'82?

2 A. '81/'82, the minister's salary, four and a half,
3 minister's pension, 1674, TD salary, dividends - 17.7 -
4 17,776.

5 212 Q. 17,776.

6 A. Then a series of allowances and - no, these are tax
7 allowances.

8 213 Q. Then if you go on to '82, '83. Just the bottom line
9 figure will do on that column?

10 A. 23,962.

11 214 Q. If you hand that back to Ms. Williams. We'll arrange
12 to have a copy to your solicitor.

13 A. You might furnish a copy to myself as well.

14 215 Q. We don't propose putting it up on screen, Mr. Burke.

15 .

16 So that your gross pay in 1982 was approximately
17 ú17,000 from, presumably, which there would have been
18 the usual deductions for tax?

19 A. Oh, yes, the usual.

20 216 Q. So - and at that stage tax was significantly greater
21 than it is now. But making all possible allowances,
22 would it be reasonable to say that your take-home pay
23 would probably have been in the order of 13 or ú14,000?

24 A. I haven't a clue. You know, I am prepared to agree,
25 yeah.

26 217 Q. And if it's anything different than that, Mr. Walsh can
27 correct it.

28 .

29 MR. WALSH: It's difficult without documentation.

30 A. It's really difficult without the documentation. We

1 would be better with the documentation.

2 .

3 218 Q. MS. DILLON: Even if we take it as your accountant has

4 outlined it, at the gross salary for the moment of

5 ú17,776, that was your annual salary?

6 A. Mm-hmm.

7 219 Q. Right. And you received in December of 1982, ú50,000?

8 A. That's correct. That's a political donation, yes.

9 220 Q. That's approximately three times your then annual

10 salary?

11 A. Yes.

12 221 Q. Yes. So would you have regarded this as a very

13 significant amount of money?

14 A. It was a substantial amount of money, yes. My

15 understanding is that - yeah, it was a substantial

16 amount of money, yeah.

17 222 Q. And at that period in your political life, was it the

18 single biggest political donation you had received?

19 A. Well, not from one individual. My understanding was

20 that that - at that time my understanding was that that

21 had comprised the make-up of a considerable amount of

22 fundraising that had been done.

23 223 Q. But if -

24 A. But not one individual. That's the point I am trying

25 to make.

26 224 Q. Insofar as it constituted a payment --

27 A. Yes. Yes. I accept that.

28 225 Q. -- was it the single biggest payment you had received

29 up to that point in time?

30 A. At that point in time, yes.

1 226 Q. And in order to receive this payment, you opened an
2 account in the Isle of Man --

3 A. Yes.

4 227 Q. -- under the name of Patrick D Burke, with an address
5 as we've seen previously, in Hampshire. Page 3039,
6 please.

7 A. Yes.

8 228 Q. And this money was paid to you through a company, as we
9 now know, called Kalabraki, which was owned solely and
10 beneficially by Mr. Thomas Brennan?

11 A. That's as it turns out now, yes. That wasn't my
12 understanding at the time, but that's as it turns out.

13 229 Q. When you gave evidence on Day 244, Mr. McGowan - I beg
14 your pardon, Mr. Burke; when you gave evidence on Day
15 244, and this evidence came after Mr. Brennan had given
16 his evidence on Day 144, and after Mr. McGowan had
17 given his evidence on Day 144. You remember the
18 sequence?

19 A. I do, yes.

20 230 Q. And in dealing with the Kalabraki 50,000 payment, you
21 made a number of statements in your evidence in
22 connection with it; one of which was that Mr. McGowan
23 gave you the €50,000?

24 A. Sorry, if you give me the quote, will you, please?

25 231 Q. Question 91.

26 A. Question 91.

27 232 Q. "Question: Why do you think Mr. McGowan gave you this
28 money?

29 Answer: As I have told you, and as he explained to you
30 himself, he was a long-term friend, and remains a

1 friend going back to the '60s, and he organised this
2 fundraising on my behalf."

3 .

4 As I understand a reading of your evidence on Day 244,
5 Mr. Burke, your position appeared to be that you agreed
6 in substance with the evidence Mr. McGowan himself had
7 given on Day 144?

8 A. That was my understanding of it. And most of the
9 evidence I gave was as a result of the evidence that
10 Mr. McGowan gave on 144. Because he went into details
11 about fundraising, et cetera, which - which I had no
12 knowledge of, but my understanding of the fundraising
13 came from his information that he gave the Tribunal.
14 Most of it.

15 233 Q. Yes. Is it the position, then, that you based your
16 evidence on Day 244 entirely upon what Mr. McGowan had
17 told the Tribunal on Day 144?

18 A. Not entirely, but - my understanding of the fundraising
19 was given by - in greatest detail was given by Mr.
20 McGowan on his evidence in 144.

21 234 Q. Mr. Brennan has now told the Tribunal that you gave the
22 account details about the Allied Irish Banks (Isle of
23 Man) Limited to him to enable Mr. Wheeler transfer the
24 ú50,000?

25 A. Well, he's wrong in that, because in particular my
26 recollection of the situation is that I gave the
27 details of that account to Mr. McGowan. He may have
28 passed it on to Mr. Brennan. He obviously did. But I
29 could not have given it to Mr. Wheeler in 1982, because
30 I never knew Mr. Wheeler in 1982. I never knew of his

1 existence. I never met the man until April of 1984,
2 when I was opening the account in Jersey. And the
3 company Caviar was established on the 19th of April,
4 1984. I never met the man until then. I never, never
5 knew of his existence, and knew nothing about him. So
6 Mr. Brennan is wrong in his recollection.

7 235 Q. There is no suggestion, either from Mr. Brennan or from
8 the question that I asked you, that you gave account
9 details to Mr. Wheeler. What Mr. Brennan said in his
10 evidence, on Day 269 --

11 A. Could you give me the question number, please?

12 236 Q. Question 347. Was that you gave the account details to
13 him. And then he told Mr. Wheeler to telex the money
14 to you.

15 A. Further reference by him of - that I must have given
16 the details to Mr. Wheeler. That seems to be the same
17 - can you give me that number again?

18 237 Q. If you just concentrate - I am not suggesting --

19 A. I am concentrating very hard, I can assure you.

20 238 Q. I am not suggesting, Mr. Burke, that you gave
21 instructions to Mr. Wheeler. What I am suggesting to
22 you is that Mr. Brennan has now told the Tribunal that
23 he gave you, or you gave him the account details. And
24 I am asking you: Is Mr. Brennan correct or incorrect
25 when he says that?

26 A. I believe he is incorrect, and the - my recollection of
27 the situation is that I gave the details of the account
28 to Mr. McGowan. He may have passed it on to - he
29 obviously passed it on to Mr. Wheeler.

30 239 Q. Yes.

1 A. Or to Mr. Brennan.

2 240 Q. You had told the Tribunal on Day 244 that you gave the
3 account details to Mr. McGowan and Mr. Ottiwell?

4 A. Yes. Mr. Ottiwell would have been, in my recollection
5 would have been present. But the key person I would
6 have been dealing with was Mr. McGowan.

7 241 Q. Yes. And you also said, I think in connection with the
8 account details, that you had given the account details
9 to Mr. McGowan or to Mr. McGowan and Mr. Ottiwell?

10 A. Well, to Mr. McGowan, yes.

11 242 Q. But you did say, at question 31 on Day 244, that you'd
12 given the account details in connection with this
13 transaction to Mr. McGowan and Mr. Ottiwell?

14 A. To Mr. McGowan, really, is the one that we would have
15 been dealing with.

16 243 Q. Is it the position that you did not give the account
17 details to Mr. Ottiwell?

18 A. It would have been Mr. McGowan. Mr. Ottiwell would
19 have been present, but Mr. McGowan - my recollection is
20 that Mr. Ottiwell was present, but that was just in
21 passing. The details would have been given to Mr.
22 McGowan.

23 244 Q. You opened this account in December of 1982?

24 A. That's right.

25 245 Q. You opened it for the purposes of receiving these
26 funds?

27 A. That's right. Yes.

28 246 Q. You have described to this Tribunal that your private
29 and your political life, and your financial life, in
30 particular, were seamless? I think that's the word

1 you've used on a number of occasions?

2 A. That's correct, yes.

3 247 Q. If there is this seamless element to your political

4 life, why did you elect to put this political

5 contribution into an account in the Isle of Man with an

6 address in England, and not use your full name?

7 A. Well, we've gone over this on a number of occasions

8 with Mr. Hanratty, when he was with us. But the

9 situation is that my understanding was that these funds

10 were being raised on my behalf overseas, and through

11 fundraising, and it was decided to leave them overseas.

12 And it was also for the purpose of confidentiality,

13 which has been gone over here for a number of times

14 with Mr. Hanratty.

15 248 Q. You said "it was decided", but by that do you mean "I

16 decided?"

17 A. That's right, yes.

18 249 Q. But it's in the context of the evidence that you've

19 given, Mr. Burke, of the seamless nature of your

20 financial affairs and the intermingling of your

21 contributions, political contributions with all other

22 aspects of your life. If there is this seamless

23 element, as you have previously described to the

24 Tribunal, about your political contributions, why did

25 you elect to keep this money separate and distinct?

26 A. Well, I kept various accounts separate and distinct.

27 250 Q. Why did you elect to keep this money --

28 A. For the reason that I've just outlined.

29 251 Q. Confidentiality?

30 A. And the fact that my understanding of the funds were

1 that they were being raised overseas on my behalf.

2 252 Q. Did you ever conduct any campaigning or political
3 activity overseas, in the Isle of Man in particular?

4 A. No. Oh, I did attend - representing the Party, a
5 funeral in the Isle of Man on one occasion, which would
6 be a political occasion.

7 253 Q. And I suggest you would hardly have needed ú50,000 for
8 that?

9 A. No. And I would accept that, yes. I would accept
10 that.

11 254 Q. We can eliminate the fact that - any necessity or
12 requirement of ú50,000 in an off-shore account in the
13 Isle of Man?

14 A. I will concede your sense of humour, yes.

15 255 Q. So that in electing to put this money in the Isle of
16 Man you had to go to the bother of opening an account
17 to receive the money, is that right?

18 A. Yes.

19 256 Q. You had to make the effort. You also had to make the
20 decision that you would use the address of a relative
21 of yours in Hampshire?

22 A. That's right.

23 257 Q. And you also decided to use the name "Patrick D Burke"?

24 A. A variation of my name, yes.

25 258 Q. And if this was a political contribution, Mr. Burke, in
26 line with all of your other political contributions,
27 why didn't you just bung it into the current account in
28 the Lombard & Ulster in Dublin Airport?

29 A. The same way as I didn't put in a lot of other
30 contributions. I used them when I needed them, and

1 they gained interest in the meantime. And as far as it
2 being - whether it was or was not a political
3 contribution, you will recall that - I will probably
4 bore you by saying it, that the bulk of that 50,000 is
5 still in existence in a political fund, which remains
6 after I resigned, and is there to this day, of which I
7 have not benefited, a political fund.

8 259 Q. You said that in connection with the ú30,000 that you
9 got from JMSE. You told the Tribunal the same thing in
10 connection with the ú35,000 that you got from
11 Mr. Barry. And on your last occasion when you were
12 here on Day 245 and 246, you said the same thing in
13 connection with the 50,000 and the 60,000, that they
14 are all there in what's left of them in the ú118,000.

15 .
16 The question is, Mr. Burke, if this is a genuine
17 political donation, why you elected to treat it in the
18 manner that you did?

19 A. For the reasons that I've given. And the money remains
20 - the bulk of that money remains to this day unspent by
21 me and is still available.

22 260 Q. Are these the only off-shore accounts you've ever had?

23 A. No. You are aware that it has come to my knowledge,
24 something that I had totally forgotten about. In 1974,
25 through my Bank of Ireland where I was banking in 1974,
26 that an account was opened, a subsidiary account
27 really, to my business through the Bank of Ireland in
28 Whitehall, with the Bank of Ireland in --

29 261 Q. Manchester?

30 A. -- Manchester. And there were, I think, four

1 lodgements - five lodgements, one of - I'll get it up.

2 It's easier.

3 262 Q. You don't need to go into it. We'll come to that in

4 the fullest of time.

5 A. About €14,000 which we transferred back in, which was

6 very helpful. Because it answered a question that you

7 had asked me before, when it came back.

8 263 Q. Now --

9 A. Which, by the way, Mr. Chairman, in level of

10 cooperation, I had asked that bank in 1998 for all

11 details of all my accounts going back to the day that I

12 ever did business with them, including correspondence,

13 and they did not disclose that to me. I went back to

14 them at a later stage and asked them for any further

15 information that they might have, and they didn't

16 disclose it to me. It only came available to the

17 Tribunal and to me in June of this year.

18 264 Q. Is it the position, Mr. Burke, that the 50,000 that's

19 lodged to this account, and the 60,000 and the 15,000

20 that were lodged to the Caviar Limited Jersey account,

21 are the only political contributions that you got, that

22 you dealt with in an off-shore manner?

23 A. Yes, as far as I know, yes.

24 265 Q. So that in comparing what - let us say, for example,

25 the funds that you received from Mr. Gogarty and JMSE,

26 or the funds that you received from Mr. Oliver Barry,

27 or the funds that you received from Fitzwilton, for

28 example, which were each significant payments, these

29 were all dealt with within the jurisdiction by you?

30 A. They were dealt with within the jurisdiction here, yes.

1 266 Q. But these funds were not dealt with within the
2 jurisdiction?

3 A. No, because my understanding of them was that they were
4 funds raised on my behalf in the UK, and they were
5 transferred into my account by Brennan and McGowan.
6 That was the trace of them, and they were - most of it
7 remains there today.

8 267 Q. Well, as you've previously described to the Tribunal,
9 Mr. Burke, when the need arose you had absolutely no
10 difficulty obtaining larger quantities of cash in
11 London through Bruton Street, or through Wood Street,
12 or Brompton Road from these accounts and taking it back
13 to this country in cash, and dealing with it in the
14 manner you've previously described?

15 A. That's correct.

16 268 Q. So we may take it from that evidence, I assume, that
17 you had no problem with having money in accounts in
18 Ireland, dealing with these accounts in Ireland?

19 A. No, I had no problem.

20 269 Q. So why, then, was it that - if these were political
21 donations, why didn't you add these funds from the very
22 beginning to the seamless account that you had in the
23 Lombard & Ulster?

24 A. Well, my understanding, as I've told you, is that these
25 funds were raised in the UK on my behalf, in the main
26 in the UK on my behalf. And they were left there - as
27 far as the question that you put in, as if they were
28 political funds, they were political funds and are
29 political funds, because the bulk of it is still there.

30 270 Q. Yes. And as political funds --

1 A. It's still there, untouched.

2 271 Q. The 118,000?

3 A. Yes.

4 272 Q. We've heard about that --

5 A. And the source of it is, as you are aware, in the main,
6 the transfer from the Jersey account, from Caviar, back
7 into the Irish Nationwide here, and 18 that was in the
8 Ulster Bank.

9 273 Q. The ú118,000?

10 A. That's right.

11 274 Q. If we go back now to deal with the opening of this
12 account, and the decision that you made to put these
13 funds abroad.

14 .

15 I assume, Mr. Burke, that if you had said to Messrs.
16 Brennan and McGowan, or whichever of them you were
17 dealing with, "This is my Lombard & Ulster account in
18 Dublin Airport, put the money in there", would they
19 have paid it in there?

20 A. I assume so, yes.

21 275 Q. So you made a specific decision not to put it into
22 Dublin Airport, Lombard & Ulster branch, isn't that
23 right?

24 A. Or into the Nationwide, or into any other place.

25 That's right.

26 276 Q. So you made a decision that you would open an account
27 in the Allied Irish Banks in the Isle of Man, and you
28 would use the version of your name that's on screen,
29 and that you would give the address that's there?

30 A. That's correct.

1 277 Q. Okay. When it came to the Caviar money, and the
2 opening of the Caviar account, you elected on that
3 occasion to put it in the name of a company?

4 A. Yes.

5 278 Q. A Jersey registered company?

6 A. Yes.

7 279 Q. In which the directors and shareholders did not, on the
8 face of the documentation, appear to be yourself?

9 A. I made it available to you as soon as the Tribunal was
10 established, yes. I had nothing to hide with it.

11 280 Q. Yes. Your main account, I think, was with the Ulster
12 Bank in Dublin Airport?

13 A. Yes. Transferred from the Bank of Ireland many years
14 before that.

15 281 Q. Your accounts in Ulster Bank, Dublin Airport were all
16 in existence and running at the time you opened this
17 account, and the time in 1984 that you opened the
18 Caviar account?

19 A. Yes. And I would have had that account in the Ulster
20 Bank while at the same time I opened the Nationwide
21 accounts. I mean, I had accounts at various places,
22 all of the details of which you have.

23 282 Q. So, presumably --

24 A. Not everything had to go through the one bank.

25 283 Q. -- you had no requirement for an account in Jersey?

26 A. It was a decision I made.

27 284 Q. And you could have directed Messrs. Brennan or McGowan,
28 or whomever you were dealing, to transfer the €60,000
29 to an account in Ireland?

30 A. I assume I could have, yes, but I chose not to.

1 285 Q. Yes. And what was the reason for that choice,

2 Mr. Burke? What's the reason for that?

3 A. Well, we've rehearsed this on many occasions --

4 286 Q. You may have rehearsed it, Mr. Burke. What I would

5 like you to address your mind to is --

6 A. I was just about to answer your question.

7 287 Q. -- is the reason why you elected to open the Caviar

8 account in a company name in Jersey?

9 A. It was my decision for confidentiality reasons that I

10 decided to do it that way.

11 288 Q. Okay. And what were you keeping confidential?

12 A. Nothing in particular. It was just the - that that was

13 my decision at the time. And if I was trying to hide a

14 thing in the manner in which I assume you are

15 suggesting, why would I bring it back, lodge it here in

16 Ireland and have it still available to this day?

17 .

18 I brought it back in '94, and it's still there,

19 available to anybody in relation to the Nationwide. As

20 far as the institutions of the State are concerned, the

21 availability of it is there.

22 289 Q. We are talking about 1984, and a decision you made,

23 which appears to be similar to the decision you made in

24 1982, that you would keep - you wanted to open these

25 accounts for reasons of confidentiality?

26 A. That's correct.

27 290 Q. And I asked you: What did you want to keep

28 confidential?

29 A. It was just a general question of confidentiality of my

30 affairs, that's all.

1 291 Q. So what was it you wanted to keep confidential? Was it
2 the fact that you had the money?

3 A. It was a general question of, every individual has a
4 right to deal with his affairs in a confidential
5 manner, in the way that he or she chooses to deal with
6 them. This is the way I chose to deal with it, at that
7 particular time. No great secrets about it. But I
8 didn't feel that my affairs had to be public knowledge.

9 292 Q. Well, in what way would your affairs have become public
10 knowledge if this money had been lodged to the Airport
11 branch of Ulster Bank?

12 A. They wouldn't, I suppose. But it was just a choice I
13 made at the time as a free citizen, that I made this
14 choice.

15 293 Q. Well, is it a coincidence, Mr. Burke, that in relation
16 to both of these donations or payments from the Brennan
17 and McGowan Group, that you elected to treat them in a
18 significantly different manner to the way you treated
19 your other political donations?

20 A. I think it was dealt with on that basis because my
21 understanding of the source of them, from Mr. McGowan,
22 was that they were funds raised, in the main, overseas.

23 294 Q. Why didn't you leave them in Bruton Street?

24 A. Why did I not leave them in Bruton Street? Well, I
25 would have been getting a greater interest in the Isle
26 of Man, rather than Bruton Street.

27 295 Q. If you had an account in Bruton Street and these funds
28 were raised in the UK, as you believed, you could have
29 put them into whatever account you said you had in
30 Bruton Street at this time?

1 A. Not that I say I had. I had accounts in Bruton Street.

2 I think we've gone through that, and that matter has

3 been clarified, about the existence, or otherwise, of

4 accounts in Bruton Street.

5 .

6 As far as the decision on the Isle of Man is concerned,

7 it would mainly have been for interest purposes.

8 296 Q. So is it the position that the following appears to be

9 the position: Mr. Brennan and Mr. McGowan wanted to

10 make a political donation to Mr. Burke. In the first

11 instance, Mr. Burke opened an account in the Isle of

12 Man, where he had not previously had any account, into

13 which he lodged a sum of ú50,000 - sorry, into which

14 was transferred a sum of ú50,000. Mr. Burke has an

15 account in Bruton Street, which he elects not to use.

16 And Mr. Burke furnishes the name of an English address

17 to the account.

18 .

19 Insofar as the Caviar Limited account happens in 1984,

20 matters have progressed somewhat, because here a

21 company is opened - is incorporated, a Jersey company

22 which does not disclose on its face the directors, the

23 true directors or shareholders of the company. And

24 into that account is lodged a sum of ú60,000, again

25 from Messrs. Brennan and McGowan, to which is added

26 ú15,000 in 1985.

27 .

28 And you say, Mr. Burke, that these are genuine

29 political donations. Is that right?

30 A. Not only do I say they are genuine political donations,

1 the bulk of the fund of that political - of those
2 political donations is still in existence. If they
3 were not genuine political donations, surely they would
4 have been spent by me, would have been invested by me,
5 they could have bought property for me. None of that
6 happened. The fund - the political funds were there.
7 They were treated in an unorthodox way, by me, I accept
8 that, but they were brought back to Ireland, and they
9 remain there to this day as a political fund, the
10 existence of which the Fianna Fail Party is aware of,
11 which I brought to the attention of the Taoiseach of
12 the day, and to the fundraiser of the day, after I
13 resigned.

14 297 Q. Yes, in 1997. We'll stay now with 1982 and 1984,
15 Mr. Burke, and the reasons why you opened these
16 accounts in the way that you did, if they were
17 political donations.

18 .

19 Can I suggest to you, Mr. Burke, that it is highly
20 implausible that as a politician you would have elected
21 to open up an off-shore account, through an off-shore
22 company, if what you were getting was a genuine
23 political donation?

24 A. Well, I have seen no suggestion of anything else. I've
25 heard innuendo, all right, as to the reason for it. My
26 understanding of the funds is that I told you the
27 reason that they were overseas and will be left
28 overseas. I chose to bring them back to Ireland into
29 accounts in Ireland, where they remain to this day as
30 political funds, not spent by me, and not invested by

1 me, not in any way otherwise used by me, that they are
2 still there to this day, political funds.

3 298 Q. The 118,000?

4 A. You just said it.

5 299 Q. As you have said it - I don't want to keep repeating
6 myself -

7 A. I was reluctant to use the figure myself, in case I
8 would be jumped on --

9 300 Q. The ú118,000, Mr. Burke, is something that arises
10 post-1997, and if you can contain yourself to abandon
11 that for the moment and not keep referring to it.
12 If we go back to 1982 and 1984, and we'll stay there
13 for the moment.

14 .

15 You were an elected member of the Dail. You elected to
16 open an off-shore account in the Isle of Man in
17 December 1982 for the sole stated and admitted purpose
18 of receiving ú50,000 from Brennan and McGowan?

19 A. That would be correct. But as far as the existence of
20 that fund in 1997, it's there since '93 - well, '93,
21 '94 when I brought it back.

22 301 Q. 1982. We'll concentrate on 1982.

23 A. Sure, no problem.

24 302 Q. You elected to open the account in this way?

25 A. Yes.

26 303 Q. All right. The way the account was opened suggests
27 concealment, in that you did not use the normal version
28 of your name, and you did not give your Irish address?

29 A. Well, you can use the word "concealment". I would use
30 the word "confidentiality".

1 304 Q. Confidentiality. You are not in a position to explain
2 to the Sole Member of the Tribunal why you felt the
3 Irish banks were inadequate on the confidentiality
4 front, so that they couldn't be trusted with your
5 money?

6 A. Well, it was a matter that - I chose to do it in that
7 particular way. I am not the first Irish citizen to
8 have an overseas account, and I won't be the last one.
9 And it was returned here in the manner in which I
10 thought it was as well. If there was any attempt to
11 hide, on a long-term basis, the existence of those
12 funds, if they were anything other than as I have
13 described, I would ask the question, Mr. Chairman, to
14 myself: Why would I do it? Why would I bring it back
15 to this country? Why would it be here? And why would
16 it remain here to this day?

17 305 Q. Insofar as this account is concerned, you didn't
18 disclose its existence to the Tribunal until June of
19 2000. Isn't that right?

20 A. When I got the details of it.

21 306 Q. Yes. And insofar as we go back again to 1982, when you
22 were a serving politician, or a member of the
23 Oireachtas, and you opened an off-shore account with
24 the false address, because it is not your true address,
25 with a name which is not the normal version of your
26 name, and you direct that the funds be paid to this
27 account that you have specifically opened to receive
28 them in another jurisdiction. Isn't that the
29 situation, Mr. Burke?

30 A. The situation is that I used a variation of my name,

1 and that - basically what you are saying - very
2 roughly, I would accept what you are saying. It was
3 unorthodox, I accept, but that was the way I chose to
4 do it at the time. And that was the situation.

5 307 Q. And what I suggest to you, Mr. Burke, is that you knew
6 this 50,000 was an improper payment, and that's why you
7 elected to deal with the money in this fashion?

8 .

9 MR. WALSH: I object to the tone of that question.

10 Mr. Burke is, supposedly, the last witness in this
11 module. There has been no evidence called to suggest
12 there is anything improper with this payment. The
13 donors have said it was a political donation. No
14 evidence to the contrary has been adduced. And it's
15 wrong for My Friend to, in a judgemental fashion, put
16 herself in your shoes, come to a judgement, without any
17 evidence, to suggest there was anything improper with
18 this. That's a matter for you at the end of the day,
19 not for Ms. Dillon. Ms. Dillon's role is to adduce
20 evidence.

21 .

22 MS. DILLON: It's my role to put to this witness, whose
23 only explanation, Sir, for the opening of this account
24 and the Caviar Limited account, to which we'll move on
25 to shortly, is for reasons of confidentiality, in
26 circumstances where this witness has said that this is
27 a political donation, which on his evidence today has
28 been treated in a manner significantly different to the
29 way he treated other political donations.

30 .

1 I suggest, Sir, I am entitled to put to Mr. Burke that
2 the reason he elected to place the layers of
3 confidentiality or secrecy about this payment is that
4 he knew, for whatever reason, it was an improper
5 payment.

6 .

7 MR. WALSH: Sorry, Sir. I would ask for a ruling on
8 this. She is not entitled to give evidence herself.

9 .

10 CHAIRMAN: Excuse me. In my opinion, Ms. Dillon is
11 perfectly entitled to canvass with the witness, and as
12 a matter of fact obliged to put to the witness any
13 alternative explanation to the one he has given. It's
14 a matter for him to deny or to accept, as the case may
15 be, I don't know what, and I think it's a perfectly
16 relevant question.

17 .

18 Now, I don't think, once he answers the question, I
19 don't think you can repeat it in another form. But, I
20 mean, he is entitled to be asked, "Is it not in the
21 circumstances, X, Y and Z?" It doesn't go any further
22 than that. And it's something that I am going to have
23 to consider, as to whether - the circumstances on which
24 the account arose. There is one explanation. That's
25 Mr. Burke's explanation. He is perfectly entitled to
26 give his explanation, and he is perfectly entitled to
27 have his explanation considered.

28 .

29 Likewise, the counsel for the Tribunal is entitled to
30 suggest, either that he is not telling the truth, or

1 that there is an alternative explanation, or a sequence
2 of events which gives rise to some question.

3 .

4 Now, let me not get further than "some question". I
5 don't want to get involved in any formal judgement or
6 decision at this point.

7 .

8 But it seems to me it's perfectly reasonable, relevant.

9 .

10 Mr. Burke is a very articulate man, and it's a matter
11 for him to deal with the question.

12 .

13 MR. WALSH: Sir, might I make this very short
14 observation: You and your legal team have carried out
15 investigations in private. You've called evidence in
16 public.

17 .

18 You have - counsel for the trial, Ms. Dillon is
19 certainly entitled to put evidence that's already come
20 into the public arena, or indeed evidence she has in
21 private, put it to Mr. Burke as for his comments on it.

22 But what she is not entitled to do is give evidence
23 herself, or pluck out of the air some innuendo which
24 has no foundation in evidence.

25 .

26 She is having - been in the position of advantage with
27 all the evidence at her fingertips. She is entitled to
28 go up and down and trawl through the evidence and ask
29 for explanations of the evidence. She's not entitled
30 to invent theories. I think that's what this question

1 is.

2 .

3 CHAIRMAN: Mr. Walsh, with due respect to you,

4 Mr. Burke is a very competent witness. He knows his

5 own affairs. He can go up and down the scale of what

6 and why he did things. He is perfectly entitled to do

7 that.

8 .

9 Ms. Dillon is entitled to put a proposition that is -

10 an alternative to what he is saying is capable of being

11 deduced from the evidence. He, in turn, is entitled to

12 say, with considerable firmness, which he has said,

13 "That's not correct."

14 .

15 Now, no more, no less. It's not going to get any

16 further, repeating it one way or the other. In the end

17 of the day, I am going to have to sit down, assess it

18 in due course, as to what my view is ultimately.

19 .

20 Whether it's Ms. Dillon's view or the witness's view,

21 I, at this moment, do not know.

22 .

23 MR. WALSH: I take it from that, that you are ruling

24 against me?

25 .

26 CHAIRMAN: I am ruling against you.

27 .

28 MR. WALSH: Can I ask for one further concession, that

29 you hear me?

30 .

1 Could you direct Ms. Dillon to ask the question only
2 once, and not more than once --
3 .

4 CHAIRMAN: I think that's not unreasonable. The
5 witness has given the same answer - I think, on all
6 occasions, on which he has been asked the question,
7 he's got the same answer. And we are not going to
8 progress.

9 .
10 Again, he is a very determined witness - he knows his
11 business and he knows what he is going to do and what
12 he is going to say. That's certainly the impression
13 that I am getting, that he knows what his answer - what
14 his recollection is, and why he did things. He's given
15 it to me.

16 .
17 I mean, I must take it de bene esse, in every sense of
18 the word, what he is saying.

19 .
20 MR. WALSH: Very good, Sir.

21 .
22 308 Q. MS. DILLON: I'll come at it a different way, in ease
23 of Mr. Walsh.

24 .
25 Mr. Burke, did you want to keep this payment hidden?

26 A. -- not a question of keeping it hidden. It was a
27 question of just the way I chose to do it.

28 309 Q. The way you chose to do it, led to it being kept abroad
29 and away from the rest of your accounts?

30 A. At that particular time, and then was brought back into

1 the rest of my accounts.

2 310 Q. In 1994?

3 A. In '93, '94 period, yes.

4 311 Q. But at the time that you opened this account, was it
5 your desire that you would keep the fact of this money
6 and the fact of this payment or contribution as secret,
7 known only to yourself?

8 A. It was money that had been, as I understood it, had
9 been raised on my behalf, friends of mine - going from
10 friends of the '60s, even, and the existence of the
11 fund was there, and I was keeping that as a matter of
12 confidence - confidential to myself, yes.

13 312 Q. Is it the position, therefore, do I understand from
14 your answer, that it was your desire, on opening this
15 account, to keep the fact of these funds, and the
16 source of these funds a secret?

17 A. No. Like any other human being, and anybody else
18 dealing in funds, the details of an individual's bank
19 account is a matter of confidentiality for each
20 individual, and that was the decision I made - the
21 decision I made was in relation to that. I opened it
22 in the Isle of Man, and for the reasons that I've
23 outlined, and I am not going to rehearse again.

24 313 Q. You opened this account, you say, for reasons of
25 confidentiality, and you were so concerned, is it the
26 position, about this ú50,000, that you didn't trust the
27 Irish banks or the Irish financial institutions in
28 connection with it, but that you wanted to keep it in
29 the Allied Irish Banks in the Isle of Man, for reasons
30 of confidentiality?

1 A. I've answered this a number of times, Mr. Chairman.

2 314 Q. And isn't one of the reasons why you would have wanted
3 to keep this money off-shore, was that you were or you
4 knew that there was something improper about this
5 payment?

6 A. Absolutely not. And to this day the bulk of that fund
7 is still there. There is nothing improper about it.
8 It's a political fund that still exists, the bulk of it
9 still being there. And that remained when I resigned
10 from my political life. I have nothing further that I
11 can add to benefit you, Mr. Chairman, in your
12 deliberations in relation to it, as far as I know.

13 315 Q. Why, then, if that is the position, Mr. Burke, did you
14 not take this ú50,000 out of this account in the Isle
15 of Man in January of 1983 and return it to join the
16 rest of your money in the Ulster Bank in Dublin Airport
17 to continue with the seamless nature of your financial
18 affairs that you have described to the Tribunal?

19 A. The seamless nature of my financial affairs continued
20 right down through the years. There was some interest
21 from this account brought back from the Caviar account
22 brought back and put into the current account in Ulster
23 Bank that you referred to.

24 316 Q. In 1994?

25 A. No. There was some of it brought back before, that if
26 you bear with me --

27 317 Q. That was the money that you kept for six months in your
28 house --

29 A. No. You know, you are so fast. If you just give me a
30 moment, I'll give you a response, the exact date of it.

1 It would have been much earlier than that. I'll give
2 you the exact date. I think it's the 5th of September.
3 Just one second. It was put into the Lombard & Ulster,
4 actually, rather than into the current account.

5 318 Q. Yes. But the question was, Mr. Burke --

6 A. In 1988.

7 319 Q. The question was, Mr. Burke, why it was, if your
8 political life had the seamless nature that you've
9 described to this Tribunal, and in particular your
10 financial affairs had the seamless nature that you've
11 described and everything was all mixed in and mingled
12 in together, and you weren't in a position to
13 distinguish political from non-political payments when
14 - some payments when you were dealing with
15 Mr. Hanratty, if that was, as you've described, the
16 nature of your political activity and the nature of
17 your financial affairs that reflected that political
18 activity, why didn't you take this ú50,000 out of the
19 Isle of Man as soon as you got it and bring it back to
20 Dublin?

21 A. But I did, later on.

22 320 Q. When you got it, Mr. Burke, why didn't you take it out
23 --

24 A. That was a judgement at the time. I didn't require it
25 at the - there wasn't an immediate demand on it at the
26 time. I didn't - I chose to deal with it in the manner
27 I dealt with it. That was the free choice of an
28 individual. I then brought it back, parts of it, at
29 various stages, I left a bit of it, about 15,000 of it
30 into a Lombard & Ulster account through Dublin Airport,

1 and the rest of it was brought back, some of it into
2 Ulster Bank and some of it into the nationwide where it
3 remains to this day.

4 321 Q. Yes. Is it the position that these are the only sums
5 of money in which you - these are the only political
6 donations that you elected to treat in this way,
7 lodging this one to the Isle of Man, and lodging the 60
8 and the 15 to the Caviar account in Jersey?

9 A. Okay. They are, because as I told you already, they -
10 money that came through Brennan and McGowan that I
11 understood were fundraising funds - the benefit of
12 fundraisers.

13 322 Q. And you had no difficulty, as I understand your
14 previous evidence, receiving money within this
15 jurisdiction, albeit much smaller sums from Messrs.
16 Brennan and McGowan and their related companies during
17 election times in matters such as that?

18 A. At election times.

19 323 Q. So that you were in a position to accept and deal with
20 and presumably lodge to your account, if it came by way
21 of cheque, monies that were paid to you in this
22 jurisdiction by Messrs. Brennan or McGowan or their
23 related companies?

24 A. I had no difficulty with that.

25 324 Q. But you elected, in dealing with these particular
26 Brennan and McGowan payments, to deal with them by
27 placing the funds in an off-shore account, one under a
28 company name, and I suggest, Mr. Burke, that you did
29 that for reasons of secrecy, and that you wanted to
30 keep this money, for whatever reason, hidden?

1 A. For reasons of confidentiality, and the reasons that I
2 outlined to you here, I don't know, many times, and we
3 can keep going over it if you like, it was for reasons
4 that my understanding was that that funding had been
5 raised overseas and - and the bulk of it had been
6 raised overseas and left overseas.

7 .
8 But I am afraid, Mr. Chairman, I have to reiterate,
9 that that money was brought back to Ireland in various
10 portions, brought back to Ireland and remains there to
11 this day as political funds. There is nothing secret
12 about them. They are there to this day. I brought
13 them to the attention of yourself, Mr. Chairman, way
14 back in '99. I brought them to the attention of the
15 Tribunal in private session even, what, about May of
16 '99.

17 325 Q. Insofar as the account on screen is concerned, Mr.
18 Burke, you first told the Tribunal about that in June
19 of 2000?

20 A. With the - the figure of it, but the background of it
21 was the source of the 35 that went into the Caviar
22 account.

23 326 Q. Is it the position, that the first time you told the
24 Tribunal about the existence of this account was the
25 28th of June --

26 A. When I got the details I immediately brought it to the
27 attention of the Tribunal.

28 327 Q. Is it the position, Mr. Burke --

29 A. Yes. And I had never been asked for it - I had never
30 been asked in relation to any of these accounts for

1 that particular period, prior to that. That was way

2 back in '82.

3 328 Q. Is it a case of "catch you if you can"?

4 A. Well, you are entitled to smart remarks like that if

5 you like. I am here, Mr. Chairman, trying to cooperate

6 as much as I can. I was the one that brought it to the

7 attention, that account to the attention of the

8 Tribunal. And it took them six months to come back and

9 ask me another question about it, in the year 2000. So

10 if there was such an awful hurry about that account, I

11 would - I would be sure that they would have come back

12 faster than that.

13 .

14 CHAIRMAN: Well, on that note, I think we'll rise for

15 lunch until quarter past 2.

16 .

17 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

18 .

19 .

20 .

21 .

22 .

23 .

24 .

25 .

26 .

27 .

28 .

29 .

30 .

1 THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

2 .

3 CHAIRMAN: Before we resume, may I just invite the
4 public to be courteous enough not to participate, even
5 when somewhat little amusing episodes take place.

6 Because I try to keep the dignity of the sessions
7 careful, and I don't want any display of any kind in
8 relation to any witness.

9 .

10 I am inviting you to do it as a matter of courtesy.

11 And I am sure you will assist me. Thank you.

12 .

13 329 Q. MS. DILLON: Good afternoon, Sir.

14 .

15 Mr. Burke, I have been requested by the stenographers
16 to slow down. And I have been requested to request you
17 not to cut across any answers, so that there is no
18 interference, as it were, between when you are speaking
19 and when I am speaking.

20 .

21 So I will do my best to follow that request.

22 A. We'll try and choreograph it a bit better, yes.

23 330 Q. Now, Mr. Burke, you said this morning, and I think you
24 may have previously said it, but you said this morning
25 that in relation to the ú50,000 Kalabradi payment, you
26 met Mr. McGowan?

27 A. That's my recollection.

28 331 Q. And you gave him details of the bank account into which
29 the money was to be paid?

30 A. That's my recollection.

1 332 Q. Can you tell the Sole Member when and where you met
2 Mr. McGowan in order to give him this information?

3 A. I can't remember the specific details of it, but that's
4 my recollection, of having given it to him.

5 333 Q. Yes. But what led you to meet Mr. McGowan in
6 connection with this matter?

7 A. That I was informed that the - there was to be a
8 contribution to the - a political contribution made to
9 me. And I gave him the details of the account.

10 334 Q. Who informed you that it was to be a political
11 contribution?

12 A. My recollection is that it was Mr. McGowan.

13 335 Q. Mr. Brennan has told the Tribunal that he had a
14 discussion with you, and it did not apparently involve
15 Mr. McGowan. And that the €50,000, as we now have been
16 told by Mr. Brennan, in fact was a payment solely by
17 Mr. Brennan?

18 A. I saw that evidence of Mr. Brennan's. That's not my
19 recollection of the situation.

20 336 Q. It would appear, therefore, from what you are saying,
21 Mr. Burke, that you must have known, prior to meeting
22 with Mr. McGowan on this occasion, that there was a
23 political donation or a payment in the offing?

24 A. I beg your pardon? Sorry?

25 337 Q. You must have known, when you met Mr. McGowan to give
26 him the details, you were giving him the details of
27 your bank account?

28 A. I would have met Mr. McGowan regularly, but on that
29 occasion I would have given him the details of the bank
30 account, yes.

1 338 Q. And we know that the lodgement was made in December of
2 1982?

3 A. December '82.

4 339 Q. And did you open the account in the Isle of Man in or
5 around that time?

6 A. I opened it specifically for that purpose.

7 340 Q. Yes. But did you open it in or around that time?

8 A. In December '82.

9 341 Q. Can you recollect how long it was, prior to you opening
10 - how long was it before the lodgement that you opened
11 the account?

12 A. It was opened with the lodgement, as far as I recall.

13 342 Q. It was opened with the lodgement?

14 A. As far as I recall, yes. You have the documentation
15 there from the - from Bruton Street, I am sure, with
16 the opening card, which is signed by Mr. McHale. I am
17 not sure of the exact date on it. There could be a day
18 or two difference, one day or another, but it was
19 opened and then the lodgement went in, or it was opened
20 with the lodgement. It's - there is a day or two,
21 maybe. I am not 100 percent sure.

22 343 Q. In any event, the sole purpose of opening the account
23 was to receive this ú50,000?

24 A. It was for - I had accounts - I had an account in
25 Bruton Street. This particular one was going into the
26 Isle of Man. It would have got interest, et cetera, in
27 the Isle of Man.

28 344 Q. Yes. And it would appear to be the position now, from
29 what the Tribunal has been told, that the source of
30 this ú50,000 was a company called Kalabraki Limited, of

1 which Mr. Tom Brennan was the sole beneficial owner?

2 A. Well, it's only in the last couple of months, during
3 the course of this Tribunal, that I discovered the
4 source, that the ownership of Kalabraki was
5 Mr. Brennan. There is no question but that at all
6 times I told you it came through the Brennan and
7 McGowan source. But I wasn't aware of that until the
8 recent hearings, that Kalabraki was solely owned by
9 Mr. Brennan.

10 345 Q. Yes. You attributed this transaction to being, in
11 effect, if I can summarise your evidence on Day 244, as
12 being a Mr. Joseph McGowan transaction, and you gave
13 the details of the transaction of the account to
14 Mr. McGowan, and that you understood that this was a
15 payment in connection with - Mr. Joseph McGowan/Ernst
16 Ottiwell fundraising?

17 A. That was my understanding. It's obviously my - my
18 understanding is incorrect, according to the evidence
19 of - that has been produced. But that was my
20 understanding from Mr. McGowan.

21 346 Q. Was that your understanding in 1982 when you received
22 the money, that it was, in fact, a payment from
23 Mr. McGowan?

24 A. Yes. That it was - my understanding was that they
25 were funds raised on my behalf. That was the - my
26 understanding of it. I had no knowledge that it was
27 coming exclusively from Mr. Brennan's account as
28 distinct from a Brennan and McGowan account. I didn't
29 know the source or the avenue to be used, but I knew
30 the - that it was Brennan and McGowan, but as to which

1 of their companies, I didn't know.

2 347 Q. Because Mr. McGowan, in evidence, and Mr. Brennan in
3 evidence, both appear to be suggesting very strongly
4 that, in fact, Mr. McGowan did not know of this payment
5 until after it had been made. And that Mr. Brennan
6 says he discussed it with you, you gave him the details
7 of the bank account, and he then instructed Mr. Wheeler
8 to transfer the funds across?

9 A. No. That's incorrect. And I believe very strongly
10 Mr. Brennan is wrong. That the details of the account
11 were given to Mr. McGowan. Now, the core question, of
12 course, is did it come from Brennan and McGowan's group
13 and individuals?

14 .
15 There is no question but it came through Brennan and
16 McGowan, to the extent that the company, Kalabraki, is
17 a Brennan company, as distinct from a Brennan and
18 McGowan company. But it's the same partnership, the
19 same, loosely described, as "group". There is no
20 question about that.

21 .
22 But my recollection of it is that I gave the details to
23 Mr. McGowan.

24 348 Q. But it is the situation, Mr. Burke, from the evidence
25 the Tribunal has heard, that this company, Kalabraki,
26 is not a Brennan and McGowan company. The assets
27 standing to the credit of that company, which were cash
28 only, were beneficially owned by one person, Mr. Thomas
29 Brennan?

30 A. Well, I would call them loosely - when I talked about

1 the Brennan and McGowan Group, I talked about Tom or
2 Joe or the group, as such. As to individuals, I never
3 indicated to this Tribunal at any time, because I
4 wasn't aware of it until the recent hearings, that this
5 was a specifically Tom Brennan company as distinct from
6 anybody else's.

7 .

8 I never had any knowledge of the avenues that were
9 being used, or the vehicles that were being used for
10 the transfers. I just knew it was coming through that
11 source.

12 349 Q. If Mr. Brennan is correct, in that he says he discussed
13 and volunteered this payment to you, and that
14 thereafter he gave instructions to Mr. Wheeler to
15 transfer the funds to an account that had been
16 designated by you, that is inconsistent with your
17 recollection, is that right?

18 A. Yes. And if you look at page 38 of 214 - or 281,
19 you'll see that - "Well, he, Ray, and Laurence Wheeler
20 dealt with that matter themselves. I didn't know where
21 it was going. I got the instructions and I told them."

22 .

23 Now, he is bringing Laurence Wheeler into this
24 situation as well. I think it is quite clear, in all
25 evidence, that I had no dealings with Mr. Laurence
26 Wheeler until '84. And Mr. Brennan is just wrong in
27 his recollection.

28 .

29 I can understand why he is wrong. It's 20 years ago,
30 19 years ago, but that's - I believe he is wrong in his

1 recollection.

2 350 Q. There is, of course, a letter that you have seen, where

3 Mr. Wheeler directs the payment of ú50,000 to your

4 account in the Isle of Man?

5 A. Yes, that would be - obviously, having given the

6 details to Mr. McGowan, Mr. McGowan would have given

7 them to Mr. Brennan and they went from there. That

8 seems to be the trail.

9 351 Q. Yes. Because Mr. Brennan and Mr. McGowan both agreed

10 in their evidence, in their latest evidence, that the

11 account details were given to Mr. Brennan and they were

12 not given to Mr. McGowan?

13 A. Well, my recollection is that I gave the details to

14 Mr. McGowan, both of that, and of the 60. Mr. McGowan

15 is clearer on the 60. He accepts the details in

16 relation to the 60, from my understanding, from his

17 evidence given to the Tribunal. My clear recollection

18 is that I gave the details of both to him.

19 352 Q. Is there any possibility that you might be incorrect in

20 your recollection in relation to that matter?

21 A. I don't - that is my distinct recollection of the

22 circumstances of it, with 20 years of a gap, but that's

23 my recollection of it.

24 353 Q. So you have a clear recollection of meeting Mr. McGowan

25 and discussing this matter with him?

26 A. I don't recall the details of the meeting, as such. As

27 I said, I would have, over the years, met Mr. McGowan

28 regularly. We've been friends since the 1960s, so I

29 would have met him regularly. But my recollection is

30 of giving him the details of the account.

- 1 .
- 2 Actually, I was very surprised when I saw the evidence,
- 3 having been given by Mr. Brennan, and later by Mr.
- 4 McGowan, because I didn't tally at all with the
- 5 situation, because Mr. Brennan's involvement of
- 6 Mr. Wheeler with myself didn't make sense at all to me.
- 7 354 Q. Because Mr. Brennan wasn't challenged on your behalf in
- 8 relation to any of the evidence that he gave?
- 9 A. This is a question of fact, and the cross-examination
- 10 in relation to details would come to myself, I'm sure.
- 11 355 Q. But it is a fact, Mr. Burke, that on your behalf, if
- 12 Mr. Brennan's testimony is incorrect, it was never put
- 13 on your behalf to Mr. Brennan that his testimony in
- 14 that regard was incorrect?
- 15 A. Well, you are getting it from me. I am here to answer
- 16 for myself, Mr. Chairman, and I am giving you my
- 17 recollection of the situation. The core is, there is
- 18 no question but I got it from the individuals
- 19 concerned. The recollection that I have is of having
- 20 given the details of it to Mr. McGowan.
- 21 356 Q. And --
- 22 A. It's a detail in the discussion. But that's my
- 23 recollection of it.
- 24 357 Q. Is it the position, that you knew when you had your
- 25 meeting with Mr. McGowan to give him the account
- 26 details, that you knew you were going to get \$50,000?
- 27 A. I knew I was going to get a political donation. The
- 28 size of it I wasn't sure of.
- 29 358 Q. When did you become aware that the donation was
- 30 \$50,000?

1 A. At the period when it appeared in the bank account.

2 359 Q. Yes. Because Mr. Brennan again said that he offered
3 you \$50,000, and that thereafter he gave instructions
4 to Mr. Wheeler to telex or to send forward that amount
5 of money?

6 A. That's not my recollection of it at all, as I've
7 already said to you. But again, as I say to you,
8 Mr. Chairman, there is no question as to the source of
9 - as to the - that it was at all times, as I've
10 informed you, Brennan and McGowan that were involved --

11 360 Q. And Mr. McGowan has denied that he had any discussion
12 or conversation with you about the \$50,000, or about
13 the donation, prior to December 1983. And Mr. McGowan,
14 I think in his evidence, said that he recollected he
15 may have been told by Mr. Brennan about the donation
16 after it had happened.

17 A. Well, I believe that his recollection is wrong.

18 361 Q. In relation to that?

19 A. In relation to that.

20 362 Q. It would seem, looking at it objectively, Mr. Burke; it
21 would seem much more likely that you would have dealt
22 with the donor of the funds, namely, Mr. Brennan?

23 A. No. It would have been, in my relationship with Mr.
24 Brennan and Mr. McGowan, and in relation to the
25 funding, it's much more likely that I would have given
26 the details to Mr. McGowan. That's why - one of the
27 reasons I am certain of it.

28 363 Q. Yes. We've seen in the extracts from Mr. Brennan's
29 diary that we have for 1985, for a relatively short
30 period, 1985, that you were accustomed to meeting Mr.

1 Brennan at that period of time on fairly regular
2 occasions, as Mr. Brennan has told the Tribunal?

3 A. Yes, that was May of '85. As I told the Tribunal on
4 many occasions, in correspondence, Mr. Brennan would
5 have been a regular worker for me during elections.

6 .
7 We had a major local election in 1985, and my reason
8 for meeting him during those occasions, if you look at
9 the dates, right through May of '85 - for the election
10 in June of '85, he would have been getting workers for
11 myself and for other Party members and organising teams
12 of canvassers and things like that. It's absolutely -
13 I would have been amazed if I wasn't meeting him. And
14 I think you'll see most of the meetings would have been
15 around, I think, if - I am subject to correction, that
16 the meetings would have been sort of after, sort of
17 five o'clock in the evening meetings, when I would have
18 been leaving the Dail to go canvassing and things like
19 that.

20 .
21 So they would have been about the forthcoming local
22 elections.

23 364 Q. We'll be coming on to deal with those in a different
24 context, Mr. Burke. But at the moment, it would appear
25 that if those diary extracts, and they are only for a
26 very short period that are available, there was fairly
27 regular communication between yourself and Mr. Brennan?

28 A. Oh, there is no doubt about that. Mr. Brennan was
29 always a major worker for me in campaigns, and I have
30 told the Tribunal that - I mean, Mr. Brennan and

1 Mr. McGowan supported my campaigns right down through
2 the years, but in particular Mr. Brennan would put the
3 teams, and organise the teams and the canvass teams and
4 assist me in the campaigns. And I was facing into a
5 major campaign in '85, in June of '85. And this was
6 during May of '85, in the course of a campaign, that I
7 would have been meeting him regularly. But I met Tom
8 and Joe regularly anyway, because they are friends.

9 365 Q. And is it possible that you met in December of 1982

10 Mr. Tom Brennan, and discussed this political donation
11 or payment with him?

12 A. No. I wouldn't have met him to discuss that political
13 donation. My recollection is giving the details to
14 Mr. McGowan of that. The situation is that undoubtedly
15 I would have seen Mr. Brennan sometime during 1982,
16 December '82. I probably saw him in November - I would
17 have seen him in November, during the course of the
18 election. I would have seen him at different times
19 during the year. We've been friends for 40 years.

20 366 Q. So is it your position, Mr. Burke, that up until

21 Mr. Tom Brennan gave his evidence to this Tribunal,
22 this year, or some short period of time before that,
23 you did not know that the ú50,000 that was lodged to
24 the credit of your account in the Isle of Man in
25 December 1982 came solely from Mr. Tom Brennan?

26 A. That it came from his company, solely from his company;
27 I had no knowledge of that at all until it came - until
28 the details came. My understanding was that it came
29 through fundraising done in the UK by Brennan and
30 McGowan. I knew it was Brennan and McGowan. As to the

1 avenue to be used for the transaction, I had no details
2 of that, which I told you - I brought Kalabracki to your
3 attention. I have no details after that, of who the
4 company was. And I was - I heard about Mr. Brennan's
5 involvement for the first time in evidence here. Yes.
6 Not in evidence here, but it was put up in the course
7 of it - the Tribunal.

8 367 Q. Yes. And so the position is that Mr. Thomas Brennan,
9 whose company and whose sole funds these were, made a
10 donation to you of ú50,000 in December 1982 and never
11 identified to you until this year that he, in fact, or
12 his company were solely responsible for the payment?

13 A. No, he didn't identify it this year. It was identified
14 here. As far as the donation was concerned, I got it
15 from Brennan and McGowan. My understanding was that
16 that was the subject of fundraising, that they had
17 carried out on my behalf, as I understood it, from
18 Mr. McGowan.

19 368 Q. So if we go back to the question. It was not until
20 this year that you appreciated or knew for the first
21 time that the ú50,000 that had been paid to you in
22 December 1982 was a contribution being made solely by
23 Mr. Tom Brennan or his company?

24 A. I didn't know it was solely for Mr. Tom Brennan, as
25 I've told you where I thought it came from.

26 369 Q. And insofar as there is a conflict on the evidence,
27 which the Sole Member will have to resolve, is it your
28 position that Mr. Brennan never told you and never
29 discussed this payment with you, and never indicated to
30 you that that ú50,000 was coming from him?

1 A. That's my evidence.

2 370 Q. And that you maintain your position, that the details

3 in relation to the bank account into which this money

4 was to be paid and the payment of it - that your

5 conversations in relation to that transaction were

6 dealt with solely by Mr. Joseph McGowan?

7 A. That's my recollection of it, yes.

8 371 Q. None of this, you realise, Mr. Burke, was ever put to

9 either Mr. McGowan or Mr. Brennan, when they were here?

10 A. I am answering for myself.

11 .

12 MR. WALSH: Sorry, Sir, it was put to Mr. McGowan.

13 .

14 MS. DILLON: I think what was put to Mr. McGowan was

15 that Mr. Burke would say that the only money he

16 received was the 60, the 50 and the 15. It was not put

17 to Mr. McGowan that, in fact, the only person with

18 which Mr. Burke dealt in relation to the €50,000

19 payment was Mr. McGowan. Mr. McGowan himself had given

20 evidence that he did not know of this payment until

21 after it was made.

22 .

23 MR. WALSH: Sorry, Sir, I beg to differ. It was

24 specifically put by me to Mr. McGowan that he was

25 wrong, that he was given the details of the accounts,

26 both in relation to the 50,000 and the 60,000.

27 .

28 CHAIRMAN: Mr. Walsh, may I just say this: If you'd be

29 kind enough to check your text. There is no point in

30 one person saying one thing, another person saying

1 another. There is a record.

2 .

3 MR. WALSH: I checked my notes before today.

4 .

5 MS. DILLON: I'll check it also, Sir.

6 .

7 CHAIRMAN: There is no point in a tit-for-tat sort of

8 --

9 .

10 MS. DILLON: I'll also check it.

11 .

12 CHAIRMAN: Either party can make an error.

13 .

14 372 Q. MS. DILLON: Subject to that, and leaving aside

15 Mr. McGowan for the moment, Mr. Burke, until we check

16 it out, none of this was put on your behalf to

17 Mr. Brennan when he was here, that you fundamentally

18 disagreed with Mr. Brennan in his recollection of the

19 Kalabraki 50,000 payment?

20 A. Well, I fundamentally disagreed with him in relation to

21 it, and I was reassured in that recollection of mine

22 when he brought in Laurence Wheeler into it in relation

23 to the whole issue, because I had never met Mr. Wheeler

24 and I had no dealings with Mr. Wheeler, never heard of

25 Mr. Wheeler until 1984.

26 373 Q. But all Mr. Wheeler did, Mr. Burke, with respect, was

27 write a letter addressed to your bank transferring

28 ú50,000 from Kalabraki. That's what Mr. Wheeler did,

29 on instructions from Mr. Brennan.

30 A. No. If you look at page 38 of the transcript, 281,

1 you'll see: "Well, he and - Ray and Laurence Wheeler
2 dealt with that matter themselves. I didn't know where
3 it was going. I just got the instructions and I told
4 them." That's Mr. Brennan's evidence to the Tribunal.
5 .
6 So --

7 374 Q. Mr. Brennan told the Tribunal on Day 269, at question
8 347, question 353 that you gave him the details of the
9 bank account, and that he then told Laurence Wheeler to
10 transfer the funds across to the Isle of Man.

11 A. Well, I am quoting here from Mr. Brennan on page 38,
12 281. 17th - Tuesday the 17th of July, page 38,
13 question 122.
14 .
15 "Answer: Well, he, Ray and Laurence Wheeler dealt with
16 that matter themselves. I don't know where it was
17 going. I just got the instructions and I told him."
18 .

19 375 Q. Right. But it seems to be clear that the general
20 thrust of Mr. Brennan's evidence was that he dealt with
21 you in relation to the €50,000 Kalabradi payment. And
22 Mr. Brennan did not suggest at any stage that
23 Mr. McGowan had any involvement or dealings with you in
24 connection with this payment?

25 A. My only dealings with Mr. McGowan in relation to that
26 payment would have been to give him the details of the
27 account, nothing more, nothing substantial, just to
28 give him the details of the account. As far as
29 Mr. Brennan's recollection is concerned, I think in his
30 evidence of the - that I've just read out for you, and

1 it goes on further, that the situation there is that he
2 was confused in relation to it, and I can understand
3 that confusion --

4 376 Q. Yes?

5 A. -- with the amount and the volume of paper that we've
6 all been dealing with. But my recollection is no more,
7 no less than giving the details to Mr. McGowan. As far
8 as the transfer is concerned, I knew it was coming from
9 the group, as I would describe it. It now turns out
10 that it was from one of the individuals within the
11 group, rather than the group - the avenue I was never
12 aware of.

13 377 Q. Did you know the money was coming from Jersey?

14 A. I know - I had no idea where it came from, and until it
15 came up here in evidence, I didn't know it came from
16 Jersey. The - when I brought it to your attention
17 that, by letter, it came from Kalabraki. As to where
18 it came from or anything else about it, I knew nothing
19 about it.

20 378 Q. Did you know it was a Sterling payment?

21 A. It was a Sterling payment, I assumed, a Sterling
22 payment, because the money was raised, as I understood
23 it, in the U.K.. That was one of the reasons it was
24 left abroad.

25 379 Q. Is that a "yes"? That you knew it was a Sterling
26 payment?

27 A. Yes.

28 380 Q. Yes. You told the Tribunal that you gave the account
29 details to Mr. Ottiwell and Mr. McGowan, when you were
30 here before, in connection with this Kalabraki payment?

1 A. Well, it would have been mainly to Mr. McGowan.

2 381 Q. Well, let's just --

3 A. Mr. Ottiwell was there in the company, yes.

4 382 Q. Well, let's just deal with the - Mr. Ottiwell's

5 situation.

6 .

7 Is it your position that the only funds that you

8 received from the sources of Messrs. Brennan and

9 McGowan is the 60,000, the 50,000, and now the 15,000?

10 A. Plus money at individual elections, when they were -

11 there were elections held, I would have got individual

12 sums from them during the elections. But these would

13 be nothing of that scale. You are talking a couple of

14 thousand, rather than the scale that you are talking

15 about in the figures that you've just mentioned there.

16 383 Q. Insofar as Mr. McGowan has described to the Tribunal a

17 fund that was in existence which raised approximately

18 €10,000 per annum which he understood to be for

19 Ray Burke/Fianna Fail, it is your position that you

20 were never in receipt of any of those funds other than

21 the 50, the 60, and the 15?

22 A. And that is not only my position, that's the fact of

23 the situation. As to wherever this other fund is, I

24 have no knowledge of it. I never heard of it, and I

25 have no knowledge of it.

26 384 Q. You told the Tribunal previously that you would have

27 discussed this fundraising with Mr. McGowan in a

28 general way.

29 A. Yes, he would have mentioned that he had a couple of

30 dinner parties. Most of my understanding in relation

1 to the fundraising was the - based on the information

2 that Mr. McGowan gave to the Tribunal here.

3 385 Q. If there was an Ernst Ottiwell/Joseph McGowan

4 fundraising activity, whoever benefitted from it, it is

5 your position you didn't?

6 A. Well, I know nothing about it.

7 386 Q. Is it your position that you didn't benefit from it?

8 A. I absolutely didn't benefit from it.

9 387 Q. Can you recollect the circumstances in which you were

10 first told you were going to receive a payment of

11 ú50,000?

12 A. I don't remember the details at this point in time off

13 the top of my head, no.

14 388 Q. You have no recollection of discussing it with anybody?

15 When you were told? Where you were told? And in what

16 circumstances you were told?

17 A. I have - no, not the details of it.

18 389 Q. Other than if any conversation took place, it took

19 place with Mr. McGowan?

20 A. That's correct.

21 390 Q. You don't find it strange that the actual donor of the

22 money would have failed to identify himself to you as

23 the donor of the money until this year?

24 A. No, I don't find that strange at all, because it all

25 came through the group of - as I call it - as it's

26 known, as the Brennan and McGowan Group, and there

27 would be no question of the individuals identifying any

28 particular, or taking credit for particular donations,

29 or anything else. That's not the sort of friendship we

30 had.

1 391 Q. All right.

2 A. I wouldn't find that strange at all.

3 392 Q. Kalabraki is not a member of the Brennan and McGowan

4 Group, Mr. Burke, as you now well know.

5 A. Well, you can describe it in that way, but

6 Mr. Chairman, in the sense that I would deal with

7 Brennan and McGowan and deal with the lads, it would be

8 anything that would be Tom's or Joe's or anything else.

9 I wouldn't know the difference, one to the other. It

10 would be, to me, the group, rather than the individual.

11 That's just my feeling of it. That's my

12 interpretation.

13 393 Q. Yes. And when you were giving evidence previously

14 about the ú60,000, you told the Sole Member of the

15 Tribunal that Mr. McGowan came to you and said he'd had

16 enough, he wanted to turn to other interests?

17 A. That was my recollection of what he said, yes.

18 394 Q. And that he wanted to give to you, or pay to you the

19 fund, the accumulated fund that was in existence?

20 A. That's the only money that I got, as I told you, the

21 60, the 50 and the 15.

22 395 Q. And as a result of that discussion, you opened an

23 account in the name of Caviar Limited, and you caused a

24 company called Caviar Limited to be formed?

25 A. No. That's not correct. I opened a company, Caviar

26 Limited, in - opened the account in - on the 19th of

27 April, '84. The 60,000 fund didn't come into it until

28 November '84, if I am correct. I can give you the

29 exact date. The 22nd of November.

30 396 Q. It was formed on the 10th of April, 1984?

1 A. Yes. And the first lodgement to the - that was the
2 company, but the lodgement opening the bank account was
3 on the 19th of April, '84. And that was the transfer
4 of the 35,000 out of the 50.

5 .
6 And the 60,000 was lodged on the 22nd of November, '84.

7 397 Q. Because what you said on Day 245, you were being asked
8 at question 451 - do you have the transcript,
9 Mr. Burke? Do you have the transcript?

10 A. Just bear with me a moment, please.

11 398 Q. Day 245.

12 A. Yeah, I have it here. What number is it? What page is
13 it?

14 399 Q. 245?

15 A. Yeah, I have 245, but what page?

16 400 Q. Page 119.

17 A. 119?

18 401 Q. That's correct. If you look at question 451, and the
19 matter that's being discussed there is the ú60,000?

20 A. 19 or 109? Sorry?

21 402 Q. 119, Mr. Burke. 119.

22 A. On page 245?

23 403 Q. On Day 245, page 119. Sorry, my mistake, it's 244,
24 page 119.

25 A. Yes.

26 404 Q. At question 451 you were asked.

27 "Question: This is a deposit, a lodgement in the Hill
28 Samuel Bank in Jersey on the 22nd of November, 1984,
29 for ú60,000?

30 Answer: That's correct."

1

2 So what's being discussed here is the €60,000?

3 A. That's right.

4 405 Q. "Question 452: Question: And the explanation that you

5 have provided to the Tribunal as to the source of the

6 money, was that it came from Brennan and McGowan?

7 Answer: That's correct."

8

9 Still on the €60,000.

10

11 "Question 453: Question: Can you tell us about that,

12 please?

13 Answer: Yes, that in 1984 Joe McGowan, who had been

14 organising the fundraising on my behalf, decided he had

15 had enough. He was going on to other interests. And

16 there was a substantial sum of money anyway. And it

17 was sufficient to be going on with. And it was decided

18 to complete the fundraising. And I opened an account

19 in Jersey in the name of a company that was established

20 on my behalf, and I gave the details of the account and

21 the fund was, that money was to be transferred into."

22 A. Yes.

23 406 Q. So that the answer that you gave, Mr. Burke, in

24 connection with the €60,000, was that you opened an

25 account in Jersey to receive those funds?

26 A. No. I already had the account in Jersey. I opened an

27 account in Jersey in the name of a company that was

28 established on my behalf. I gave the details of that

29 account. I am talking about the account that had been

30 opened in April. It's the same company.

1 407 Q. But you didn't - when you were giving your response to
2 question 453, and the question was only in connection
3 with the €60,000, you said - and that the €60,000 was
4 to complete the fundraising, and you said, "And I
5 opened an account in Jersey in the name of a company
6 that was established on my behalf, and I gave the
7 details of the account and the fund was, that money was
8 transferred in."

9 A. I could have probably been more precise in the
10 language. The account had been opened a number of
11 months before, in March of - or in April of that year,
12 but that was the account that was being talked about.
13 Maybe it's a bit loose in its language, but that's the
14 account I am talking about.

15 408 Q. And when you were giving this evidence, Mr. Burke, this
16 was significantly similar to the evidence Mr. McGowan
17 had given earlier on Day 144 in connection with the
18 windup of the fundraising?

19 A. A lot of my understanding in relation to the
20 fundraising had come from Mr. McGowan's evidence of
21 that day, yes, because - as a matter of fact, if I
22 could take the opportunity now of clarifying one thing?
23 And you raised it just a few moments ago, on a question
24 that you were asking me about 10,000 a year, or
25 something like that.
26 .
27 I saw some reference to targets, and things like that,
28 in some evidence given by Mr. McGowan. I never had any
29 discussion with anybody about targets in my life. I
30 want to correct - I meant to put that on the record

1 when you asked me the question earlier on.

2 409 Q. So the position, then, Mr. Burke, so that we can
3 understand the thing quite clearly, is that other than
4 these funds, the 60, the 50 and the 15, you did not get
5 any other funds sourced through Mr. Joseph McGowan or
6 Mr. Ernst Ottiwell?

7 A. That's correct, other than funds that I would have got,
8 as I mentioned to you earlier, of a relatively few
9 thousand pounds at individual elections when the
10 elections were on. There was no other fundraising - no
11 other sums other than that.

12 410 Q. And the "other funds, the other Brennan and McGowan
13 funds that you are talking about, are funds that were
14 paid in this jurisdiction during or in connection with
15 elections -

16 A. Yes, there would have been a few thousand pounds at
17 some elections.

18 411 Q. So that the substantial bulk of the funds that you were
19 paid by Messrs. Brennan and McGowan are comprised in
20 these two bank accounts?

21 A. Not the substantial bulk. The bulk of the funds, other
22 than the portion that I've just mentioned to you, about
23 individual - during individual campaigns. And that
24 would vary. Sometimes it would be a thousand or two,
25 sometimes it could be 3,000. I don't have the records
26 to be accurate in relation to it.

27 412 Q. And was it your understanding, when you gave evidence
28 previously on Day 244 and 245, that the source of the
29 monies for the 60,000 and the 50,000 were both raised
30 as a result of fundraising activities in England?

1 A. That was my understanding, that I got from Mr. McGowan,

2 yes.

3 413 Q. And were you told that by Mr. McGowan?

4 A. That was my understanding from Mr. McGowan, yes.

5 414 Q. Did you ever discuss them with Mr. Brennan?

6 A. No, not that I recall. In detail, I don't recall it.

7 415 Q. Can you think of any reason as to why Mr. Brennan and

8 Mr. McGowan would have misled you as to the source of

9 these funds?

10 A. No. You'd have to ask that to them.

11 416 Q. It was never put to them, you see, by your counsel,

12 Mr. Burke, so we weren't availed of the opportunity.

13 A. Well, the opportunity is there for the Tribunal to lead

14 the witnesses. I am giving you the situation as I know

15 it, as I understood it.

16 417 Q. Your understanding of these funds was that they came

17 from fundraising activities, and were an accumulation

18 of funds in some regard over a number of years in

19 England?

20 A. That's my understanding of it. That was my

21 understanding. It's quite clear now that that's - that

22 wasn't correct.

23 418 Q. You were told that by Mr. Joseph McGowan?

24 A. That was my understanding from Mr. McGowan, that he was

25 doing fundraising, yes.

26 419 Q. And that the source of these funds were these

27 fundraising activities?

28 A. Yes, and I never knew the details of the fundraisers.

29 And also, that they had been raised by friends in the

30 U.K.. I think part of the 60, it turns out, whether

1 accurately or inaccurately, or whether the man was told
2 or wasn't told, et cetera, but I understand you spent
3 some considerable time talking about Mr. Finnegan's
4 contribution of 10 to that 60, which would fit in with
5 what Mr. McGowan had been telling me. But I don't know
6 the background of it.

7 420 Q. Did you know, for example, that a company called Canio
8 Limited, which was beneficially owned ultimately by
9 Mr. Brennan, Mr. McGowan and Mr. Finnegan, were going
10 to pay you ú60,000?

11 A. No, I never heard of Canio until the day I was in this
12 box here, and I was given the details of Canio and the
13 other associated companies. And that was the first I
14 had heard of it.

15 421 Q. Yes. Did you discuss it with Mr. Wheeler?

16 A. No. And I was amazed when I saw the transfer
17 information in my bank in November of '84, or whenever
18 it was, shortly after that, that I got details of the
19 lodgement, that it had actually come through
20 Mr. Wheeler. I was quite astounded by that.

21 422 Q. Mr. Burke, Mr. McGowan has told us that he went to
22 Jersey on the 13th of November, 1984, and that he met
23 Mr. Wheeler, and that he told Mr. Wheeler that out of
24 the Lombard & Ulster, Canio loan, a payment of ú60,000
25 was going to be made to Mr. Ray Burke. Do you know
26 anything about that?

27 A. I know nothing about that.

28 423 Q. You, yourself, apparently, were in Jersey on the 15th
29 of November, 1984?

30 A. Well, I've seen evidence of that, and a comment made by

1 a representative, Mr. Simon --

2 424 Q. Howard?

3 A. -- Howard raised that issue of me being in Jersey from
4 an extract from a diary of Mr. Wheeler's.

5 .

6 Now, that is not my recollection of it. And I've gone
7 back through it, and I've thought about it and looked
8 at it, and gone sideways at it, and I am reassured in
9 my recollection that I wasn't out there at that time.

10 If you look at the details of the lodgements in the
11 bank in Caviar - sorry, Mr. Chairman, I am going on a
12 bit on this, but I just want to put it in context, to
13 get it - get the point across.

14 .

15 If you look at the 15th of November in the Jersey
16 account in Hill Samuel, there is a withdraw of £10,000.
17 And on the following day there is a lodgement of
18 £10,000, the 16th. And then later on that month, I
19 think it's the 30th of November, I actually take
20 £10,000 out of London. Now, that's out of the Hill
21 Samuel branch in London.

22 .

23 What appears to me to have happened, Mr. Chairman, is
24 that - and I can't be 100 percent sure of it, but what
25 appears to have happened is that it was my intention to
26 go to Jersey, that I didn't go, because the money was
27 actually prepared to be collected, and obviously wasn't
28 collected, and was relogged the following day, through
29 their books, and that I went to London on the 30th and
30 collected the same sum of money there.

1 .
2 That seems to have been what has happened. The only
3 reason I would have had to go to Jersey at that time
4 would have been to see, if I was calling into
5 Mr. Wheeler, would have been about the mandate
6 question, as to who was entitled to sign cheques, et
7 cetera, in the account.

8 .
9 I knew there was a lodgement coming through to the
10 account, because I had been told by Mr. McGowan, but I
11 don't believe - that's my recollection. I don't
12 believe I was there. That's my recollection of the
13 situation.

14 425 Q. Sorry?

15 A. That's my recollection of the situation.

16 426 Q. You don't think that you were in Jersey on the 15th
17 November, 1984?

18 A. I am not sure, but I don't think so. That's looking at
19 the details as I see them there. I can be corrected on
20 it, Mr. Chairman, but that's my - that seems to be -
21 the sequence of events, as I've outlined it to you
22 there, says I wasn't. Because I was there in the
23 following March period to finish off the mandate,
24 because the mandate question still was outstanding. So
25 I don't believe I was there in November.

26 .
27 I am subject to correction on it, Mr. Chairman, but I
28 am giving you my best recollection of it at this
29 distance --

30 427 Q. Well --

1 A. -- from the circumstances that I have given you, as I
2 have outlined to you.

3 428 Q. You appear to have been collecting cash in London on
4 the 19th of November, 1984. Document 5239, please.

5 .
6 This was money that had been transferred from this
7 account for collection in London. If you scroll down
8 to the bottom of that page --

9 A. Sorry, the 19th?

10 429 Q. Of the 11th, 1984. If you scroll down, it says:

11 "Cash collected in London - 19/11/84"?

12 A. In London, but not in Jersey.

13 430 Q. We haven't come to that at all yet, Mr. Burke.

14 A. Sorry, just one second while I get the exact - I think
15 that's the 30th, if I am not mistaken. Wait until I
16 just have a look.

17 431 Q. If we scroll back to the top of the document.

18 A. Yes, if you look at the top of the document, it's the
19 30th of the 11th, '84.

20 432 Q. Yes, the date of the statement is the 30th of the 11th,
21 '84. If we move down through the document you will see
22 the value date for the 36,999.97 is given as the 20th
23 of the 11th, 1984, with the maturity on the 20th of
24 December, 1984. Beneath that, "As arranged, we confirm
25 we shall repay value 0.11.84. Principal 10,005."
26 Then, "You receive ú10,000 credit to a settlement
27 account."

28 .
29 If we scroll down, you see, "Cash collected on London,
30 19.11.84. Interest will be adjusted at new maturity at

1 ú27.50, 11 days."

2 .

3 That would suggest very strongly that you collected

4 cash in London on the 19th of the 11th, 1984?

5 A. Yes.

6 433 Q. Now, Mr. McGowan was in Jersey on the 13th of November,

7 1984. Document 755, please.

8 A. I am not arguing it. You don't have to put it up.

9 Yes, I recall it.

10 434 Q. And Mr. McGowan says that when he met Mr. Wheeler on

11 the 13th of November, 1984, he told him that you were

12 going to be paid ú60,000.

13 A. Mm-hmm.

14 435 Q. And it was on foot of that conversation that this telex

15 was sent from Mr. Wheeler to Mr. Owens, because

16 apparently Mr. Finnegan's representative, Mr. Barry,

17 wasn't agreeing to a deduction of ú20,000.

18 .

19 Could we have Document 4062, please.

20 A. But there is no suggestion that I have seen any of

21 these documents during the course of that transaction,

22 Mr. Chairman.

23 436 Q. No, we are simply trying to establish, Mr. Burke,

24 whether as a matter of probability or not you were in

25 Jersey on Tuesday, on the 15th of November?

26 A. Go ahead.

27 437 Q. At 250, you will see the extract from Mr. Wheeler's

28 diary has an appointment, Mr. Burke --

29 A. I do. I accept it was in the diary. I mentioned that

30 earlier, it was given by Simon Howard.

1 438 Q. Also, it would appear from other diary entries made by
2 Mr. Wheeler, that when an appointment was cancelled, it
3 appeared to have been his practice to put a line
4 through it?

5 A. Well --

6 439 Q. And that's so recorded on, I think, the next page
7 document, or the next extract from the diary. That
8 would suggest, very strongly, Mr. Burke - you will see
9 there, it says, I think on one of them, "Large pencil
10 across entry". Do you see that one on screen?
11 Thursday, the 4th of July. So it would appear that it
12 would have been Mr. Wheeler's habit, and not an unusual
13 habit, if someone wasn't coming, to put a line through
14 the diary entry. If we can go back --

15 A. Sorry, just before you leave that, it would suggest
16 that it happened once right through his whole diaries,
17 rather than happened regularly.

18 .
19 The second point, if I can come back to the first issue
20 that you've given there in relation to the withdrawal
21 from London. I think it helps even further in my
22 recollection that I wouldn't have been out on the
23 island, because if I was there, I would have been
24 collecting the cash on the 15th that was relodged back
25 in on the 16th. And it's even clearer that I collected
26 it in London on the 19th. So, you know, it doesn't
27 make sense.

28 440 Q. Yes. If you just - the point you make, Mr. Burke,
29 about the pencil entry only being one. The Tribunal
30 has only requested and extracted those diary entries

1 that are relevant to the persons who have been asked to
2 give evidence.

3 A. I am giving you, Mr. Chairman, my best recollection of
4 it. As I say, I am subject to correction on it. But
5 that is - it's not a matter of great significance to
6 me, anyway, but it's the - the question that it just
7 doesn't fit in with dates. That's all I am saying to
8 you.

9 441 Q. Yes. If it were the position, Mr. Burke, and I accept
10 that you have no recollection of this, that on the 15th
11 November, 1984, you were in Jersey meeting Mr. Wheeler,
12 what were you doing there?

13 A. Well, first of all I wasn't there, as far as I recall.
14 Secondly, if I was there, it would have been to
15 finalise, as he was dealing with the matters between
16 the bank and myself on the question of the mandate
17 question; it would have been in relation to finalising
18 the mandate in the question that the - I was getting a
19 transfer - I had been aware from Mr. McGowan that I was
20 to receive this political donation into my account.
21 And it would have been to make sure that everything was
22 correct as far as the mandate question was being
23 handled with the bank by the solicitors. That's what I
24 would have been doing with them.

25 .

26 That was then dealt with, not at that time, but later
27 on, in March and April of 1985, and was finalised in
28 May of 1985.

29 442 Q. There is nothing to indicate, Mr. Burke, that
30 Mr. Wheeler's diary entry is incorrect.

1 A. No, I am saying to you that my recollection of the
2 situation, of which I was - I am not making a big issue
3 of it. I don't want to make a big issue of it, because
4 it would be nothing to me if I was there. But I am
5 saying to you that in the context of the money trail,
6 if you want to call it that way, why would I - if I was
7 in Jersey on the 15th, I may have been planning to go -
8 if I was in Jersey on the 15th and ú10,000 was prepared
9 for me, I didn't collect it, but I collected ú10,000 in
10 London on the 19th when I was in London at that time.
11 Why would I cancel one and collect in another? It
12 doesn't make sense --

13 443 Q. Yes. Well, if we go back very briefly --

14 .

15 MR. WALSH: Sir, again --

16 .

17 CHAIRMAN: Just a moment --

18 .

19 MR. WALSH: -- I don't want to hold up matters.

20 Mr. Wheeler didn't give evidence, Sir. Some witness,

21 Simon Howard, from his firm, looked at his diary and

22 prepared this record for us. I mean, we don't know

23 what else is in the - from the man who made the

24 entries, whether the entries are true and accurate.

25 We all know from our own personal lives that you may

26 pencil in an appointment or a number of appointments

27 for a particular day, and you may even have a system

28 where you put a tick after them if they take place, or

29 you cross them out if they don't take place. But in

30 anyone's life, if you look back through your diaries,

1 the ticks or your system isn't always applied 100
2 percent of the time. And if then 15 or 20 years after
3 the event you look at the diary you cannot extrapolate
4 from that. That is - certainly and surely, just
5 because it's written in the person's diary means a
6 meeting took place.

7 .

8 That's the first point.

9 .

10 The other point I just want to raise, in ease of the
11 transcript and the clarity of the facts which you are
12 investigating, Sir, is that Ms. Dillon has helpfully
13 furnished us with a number of additional documents this
14 morning, that's the Hill Samuel records, commencing
15 with the 15th November, 1984, which are now page 5235,
16 5236, 5237, and also one on page 5239. They all deal
17 with this question of the ú10,000, and whether it's
18 Jersey or London. Perhaps it might be in ease and in
19 clarification of the matter, if they were dealt with at
20 this time, while we are on this topic?

21 .

22 MS. DILLON: I am obliged to Mr. Walsh for his
23 directions, but I think I'll take my own course, Sir.

24 .

25 CHAIRMAN: Very good.

26 .

27 444 Q. MS. DILLON: In relation to Mr. Walsh's first point, I
28 am obliged for his dissertation on how diaries are kept
29 in general, but I would really prefer that this witness
30 would answer the questions.

- 1 .
- 2 If we can step back in time very slightly, Mr. Burke.
- 3 And we look at the ú35,000 that was lodged to Hill
- 4 Samuel. In April of 1984 you were in Jersey, in April
- 5 of 1984, weren't you?
- 6 A. I opened the account, apparently, yes. Not apparently.
- 7 I opened the account.
- 8 445 Q. And shortly after you opened that account, ú35,000 was
- 9 lodged to the account, which you say is the transfer
- 10 across from the Kalabraki monies from the Isle of Man?
- 11 A. On the 19th of April I opened the account, which was
- 12 the date that the money was transferred in, yes.
- 13 446 Q. And your solicitor, Mr. Oliver Conlon, had written
- 14 earlier to Messrs. Bedell & Cristin asking for an
- 15 account to be - for the company to be urgently set up,
- 16 I think?
- 17 A. I think, if you look at the correspondence - I'll get
- 18 it up for you here now. If you just bear with me a
- 19 moment.
- 20 .
- 21 The word "Urgent" does appear, but I think if you look
- 22 at his letter as such, what he says is - it's easier if
- 23 I get the letter.
- 24 447 Q. 2546, please.
- 25 A. Yeah. What the letter says on the 28th of March, 1984,
- 26 it's --
- 27 448 Q. I'll read it into the record, Mr. Burke.
- 28 .
- 29 "I refer to previous correspondence, and our recent
- 30 telephone call, and shall be greatly obliged if you

1 will proceed immediately with the formation of the
2 above company.

3 .

4 Enclosed is a remittance of ú488 to cover your fee in
5 the matter.

6 .

7 I should be grateful if you will arrange for your usual
8 representatives to act as directors and secretary of
9 the company.

10 .

11 Immediately following incorporation, and I understand
12 there is considerable urgency about this, it would be
13 greatly appreciated if you would furnish the Memorandum
14 of Articles of Association of the company, together
15 with the Certificate of Incorporation to Hill Samuel, 7
16 Bond Street, St. Helier, to facilitate the opening of a
17 bank account on behalf of the company. I understand
18 our clients will deal direct with the bank in relation
19 to signing cheques, et cetera.

20 .

21 It would be much appreciated if you will permit the
22 registered office of the company to be located at your
23 office.

24 .

25 I will discuss the question of the appointment of
26 auditors, and will contact you regarding same in due
27 course.

28 .

29 The beneficial owners of the shares will also be the
30 bank signatories, and are Mr. PD Mr. Burke and Mrs. A

1 Burke, Church Lane, Holybourne, Alton, Hampshire,
2 England.

3 .

4 I look forward to hearing from you in early course."

5 And "PP" from Mr. Oliver J Conlon.

6 .

7 Now, when that letter was sent, your solicitor sets out
8 in that letter an urgency in relation to obtaining the
9 company, and that urgency, according to paragraph 4 of
10 that letter, is associated with the facility or the
11 requirement of opening a bank account?

12 A. The situation is, if you look at the first paragraph, I
13 referred to "previous correspondence" and "recent
14 telephone call". So this thing had been going on for a
15 while, obviously. And anybody that knows me, and that
16 has dealt with me, will know that when I want something
17 done and when I am doing something, I want it done
18 yesterday, not today. That would be the only level of
19 urgency that was involved in it.

20 449 Q. I see. So it had nothing to do with opening a bank
21 account, as seems to be set out by your solicitor in
22 the fourth paragraph?

23 A. No, it was a question of the - he then - the Memorandum
24 of Articles, et cetera, are being prepared to
25 facilitate the opening. But there is no sense of wild
26 urgency. It's a sense of people - in people dealing
27 with me, they know I am that sort of person. As a
28 matter of fact, I think, even in the public arena, I
29 would have had that reputation in government over the
30 years.

1 450 Q. It says, "Immediately following incorporation, and I
2 understand there is considerable urgency about this."

3 A. I've just answered you that.

4 451 Q. "It would be greatly appreciated if you would furnish
5 the Memorandum and Articles together with the
6 Certificate of Incorporation to Hill Samuel, 7 Bond
7 Street."

8 .
9 So I suggest to you, that the matter that is urgent,
10 from your solicitor's point of view, is the furnishing
11 of the particulars of the company to the bank?

12 A. No. The incorporation --

13 452 Q. It says, "Following incorporation"?

14 A. "Immediately following incorporation."

15 453 Q. "And I understand there is considerable urgency about
16 this." So it couldn't relate to the incorporation,
17 Mr. Burke?

18 A. It is dealing with the incorporation. If you read it,
19 "Immediately following incorporation", and he is
20 talking about the incorporation. And I understand that
21 there is a considerable urgency about this. That's
22 because the matter had obviously been dragging on
23 through correspondence and recent calls, been getting
24 it underway. And that's where it stands --

25 454 Q. So the urgency was to get the company incorporated?

26 A. Well, the urgency was having decided to set up the
27 company, I was telling them to get on with it, as one
28 does, sometimes.

29 455 Q. And the sole purpose of this company was to receive
30 money?

- 1 A. I was transferring money into it, yes.
- 2 456 Q. What was the urgency about transferring money from the
3 Isle of Man to Jersey?
- 4 A. There was no urgency in it at all. That was just the
5 situation - the situation of it was that I had decided
6 to go a particular road of setting up a company, to
7 handle the political fund, and I wanted to get on with
8 it. And that's nothing more, nothing less.
- 9 457 Q. To handle what political fund?
- 10 A. The political fund that was in - to transfer it from
11 the Isle of Man out to Jersey.
- 12 458 Q. And did you do that? Did you transfer all your funds
13 from the Isle of Man out to Jersey?
- 14 A. I transferred them through Bruton Street, 39,000, and I
15 transferred 39,000 from the Isle of Man to Bruton
16 Street. And 35 went two days later out to Jersey.
- 17 459 Q. Yes. Did you transfer all the funds that were standing
18 in the Isle of Man out to Jersey?
- 19 A. I transferred 35 of the 39 that was there.
- 20 460 Q. So the position is that in April of 1984, immediately
21 prior to the ú35,000 being paid to the account of
22 Caviar Limited, you were in Jersey?
- 23 A. I was there for the opening of the account, yes.
- 24 461 Q. And the purpose of opening that account was to receive
25 this ú35,000?
- 26 A. Which I was transferring in, yes.
- 27 462 Q. Which was a transfer from one, if I may call it this,
28 Mr. Raphael Burke banking entity, to another
29 Mr. Raphael Burke banking entity?
- 30 A. That's correct, yes.

1 463 Q. So you went to the trouble of travelling to Jersey to
2 make sure that your ú35,000 would have a bank account
3 into which it could be received?

4 A. No. I went to open the bank account in Jersey. And I
5 think the record shows that I opened the bank account.

6 464 Q. On the 19th?

7 A. I think Mr. Simon, whatever his name is, Simon Howard
8 gave you the information in relation to that. And I
9 don't deny that at all. That's fact. I opened the
10 account.

11 465 Q. Yes. So you were in Jersey to receive the ú35,000?

12 A. I was there to open the bank account.

13 466 Q. To receive the ú35,000; that was the purpose of the
14 exercise, Mr. Burke, isn't that right?

15 A. Mr. Chairman, I was there to open a bank account in the
16 name of Caviar Limited, a company having been
17 established --

18 .

19 CHAIRMAN: Let's not go around in circles. What were
20 you going to open the bank account with?

21 A. With the transfer of the money from the Isle of Man.

22 .

23 CHAIRMAN: Now --

24 .

25 467 Q. MS. DILLON: The ú35,000?

26 A. From the transfer of the Isle of Man money.

27 468 Q. So the purpose of your trip to Jersey, in April of
28 1984, was to open a bank account to receive the
29 ú35,000?

30 A. To finalise the setting up of the company, and to open

1 the bank account. That was my - the reason for my
2 journey.

3 469 Q. When the £15,000 was paid in April of 1985, you were
4 also in Jersey, Mr. Burke, isn't that right?

5 A. That was at the time in relation to the completion of
6 this long outstanding mandate question that we talked
7 about before many times, yes.

8 470 Q. And on the 19th of April, 1985, £15,000, which we now
9 know came from Canio Limited, was paid into your
10 account in Caviar Limited in Jersey, isn't that right?

11 A. That's correct, yes. That turned out to be the
12 situation, yes.

13 471 Q. And if Mr. Wheeler is correct in his diary entry, and I
14 suggest to you that he is probably correct, you are
15 also in Jersey immediately before the £60,000 was paid?

16 A. I don't believe I was, but it's not - to me it's a
17 matter of no great importance, but I was trying to
18 clarify for the Chairman the sequence of events that
19 gave me the impression that I wasn't in Jersey, because
20 I - at that time I collected the money in London,
21 rather than in Jersey.

22 .
23 If I was in Jersey I would have collected it in Jersey,
24 rather than in London. It could have been my intention
25 to go out and handle that mandate situation at that
26 time, in November of '84. But my view is, from the
27 information that's available there, and I am making no
28 great issue of it. Maybe if I am stating it too often,
29 it seems as if I am, I am not intending to make a great
30 issue of it. I am just trying to be of help to the

1 Tribunal in its work. That's all.

2 472 Q. If Mr. Wheeler is correct about his diary entry,

3 Mr. Burke, the following appears to be the position:

4 You were in Jersey immediately before the \$35,000 was

5 paid. You were in Jersey immediately before the

6 \$60,000 was paid. And you were in Jersey immediately

7 before the \$15,000 was paid. And as you say, you have

8 no great issue on Mr. Wheeler's diary?

9 A. Other than, I think, he is wrong.

10 473 Q. Yes, but you are not absolutely clear in your own

11 recollection?

12 A. I am telling you that I believe he is wrong. I met

13 Mr. Wheeler. The reason I can't be --

14 474 Q. As you've already said.

15 A. But I - my reason is that - my recollection, I met

16 Mr. Wheeler twice in my life, once when I met him at

17 the formation of the company, when I got the documents

18 from him to bring to the bank to open the account, and

19 the second was when I was there in March of '85, which

20 I notice isn't in his diary, but that's another day's

21 work.

22 475 Q. Is it a coincidence that you were probably in Jersey on

23 each occasion a significant payment was made to this

24 account?

25 A. Sorry? Significant occasion? I was there the first

26 time in the transfer of the \$35,000, when I opened the

27 account. The second time, I believed - and I believe I

28 was there for the - at the time of the 15,000, because

29 I was dealing with the mandate situation. And on the

30 middle one, I don't believe I was there for it. As I

1 say, I am not - I can't be 100 percent, but I am 99.9
2 percent on the basis of the evidence of the money
3 trail.

4 476 Q. Yes. But it would appear from Mr. Wheeler's diary,
5 that you were in Jersey on the 15th of November, 1984,
6 and if you were in Jersey on the 15th of November,
7 1984, which was four days - sorry, five days before the
8 money was paid to Caviar Limited, it was two days after
9 Mr. McGowan told Mr. Wheeler that you were getting
10 ú60,000?

11 A. Well, I think - I don't believe that is correct,
12 because I never knew that the transfer was coming from
13 Bedell & Cristin Solicitors. As I told you already, I
14 was interested, to put it at its strongest, when I saw
15 the Bedell & Cristin name on it.
16 .
17 As a matter of fact, when I was in the witness-box here
18 before, this coincidence of the money was gone into in
19 great detail by your predecessor, who believed that it
20 would be too much of a coincidence that Brennan and
21 McGowan would have had bank accounts out with Bedell &
22 Cristin, or through Bedell & Cristin at the same time.
23 .
24 I was taking quite an amount of pressure in the
25 witness-box in relation to that.

26 477 Q. If Mr. Wheeler is correct, Mr. Burke, and I suggest to
27 you that there is nothing to indicate his diary entry
28 is incorrect, you are in Jersey immediately preceding
29 the payment of these three payments, the ú35,000 in
30 April '84, the ú60,000 in November 1984, and the

1 ú15,000 in April of 1985.

2 A. I'd love to know the significance of the point you are
3 trying to make to me. But what I am saying to you,
4 that it is a matter of no great import to me as to
5 whether I was there or not. I am trying to be helpful
6 to you, to tell you that I don't believe I was. And
7 the fact that a couple of days later I took money from
8 London, rather than having been out in the island,
9 seems to me to confirm my own view of the situation.

10 .

11 But if there is some major point that you are trying to
12 get to, to make to me, fine, I'll answer it.

13 478 Q. Well, were you out in Jersey on those three occasions
14 for the purpose of ensuring that you got your money?

15 A. I beg your pardon?

16 479 Q. Were you out in Jersey on those three occasions for the
17 purpose of ensuring that you got your money?

18 A. I opened the first - the first occasion I was there,
19 was to open the account with my transfer from my own
20 account in - through Bruton Street. The second
21 occasion that I was there, as far as I can recollect,
22 was in relation to the 15,000. And I concede that my
23 recollection was incorrect in relation to it, and I
24 apologise to the Chairman in relation to it.

25 .

26 That's the situation.

27 .

28 As far as the other date that has been mentioned by
29 Mr. Wheeler, which is the - what was it, the 15th? The
30 15th. There is no great significance. The transfer

1 took place on - I don't know what date it was.

2 480 Q. 4062.

3 A. The transfer took place on the --

4 481 Q. The --

5 A. The 22nd. On the 22nd. So I wasn't there at the time

6 of the transfer.

7 482 Q. That's what I put to you, Mr. Burke, immediately prior.

8 A. Sorry?

9 483 Q. What I put to you, Mr. Burke, was that immediately

10 prior to these three financial transactions, if

11 Mr. Wheeler's diary entry is correct, you were in

12 Jersey. And I asked you the not unreasonable question,

13 were you there for the purpose of making sure you got

14 your money?

15 A. I would have been in touch with Mr. Wheeler, obviously,

16 with the intention of clarifying, in advance of the

17 money being transferred in, because I knew the money

18 was being transferred in, the amount of it I didn't

19 know, from Mr. McGowan. And I would have been in touch

20 with him in relation to that, about this mandate

21 question which came out in '85, which wasn't eventually

22 sorted out until May of '85. That would have been the

23 only reason I would have had to call into Mr. Wheeler,

24 because the company had been established. And it would

25 have been justified to --

26 484 Q. Did you discuss with Mr. Wheeler, or give Mr. Wheeler

27 particulars of the bank account into which the \$60,000

28 was to be transferred?

29 A. Absolutely not. I gave the details of that to Mr.

30 McGowan.

1 485 Q. You've just said, "I would have been in touch with
2 Mr. Wheeler, obviously, with the intention of
3 clarifying in advance of the money being transferred
4 in, because I knew the money was being transferred, but
5 not the amount, I didn't know from Mr. McGowan."

6 A. Yes.

7 486 Q. So you were in touch with Mr. Wheeler?

8 A. No, no. If I was in touch with Mr. Wheeler, it would
9 have been in relation to the mandate question, to
10 assure that everything in relation to that account was
11 in order, and that's the only thing I would have been
12 in touch with him about.

13 .

14 CHAIRMAN: May I just intervene here? Just by way of
15 inquiry, I don't understand the complexity of the
16 mandate.

17 .

18 As I understand a mandate, a letter from you to the
19 manager of the bank in question, asking him to add your
20 wife's name to the account, and enclosing a copy of her
21 signature and authorising a person signing in those
22 terms to draw money on the account. That's as I
23 understand a mandate in that context.

24 .

25 Would you mind telling me where this - I mean, you've
26 repeatedly said that you travelled to Jersey for this
27 particular purpose. Now, would you tell me, I may be
28 wrong now, and I am the first person to confess that,
29 because I've never had an account in Jersey.

30 A. You are very fortunate.

1

CHAIRMAN: Please, please.

3

4 Now, what exactly happened? What exactly is the
5 problem of writing the letter saying, "Dear Manager, I
6 wish my wife" - whatever her Christian name is - "to be
7 added to the signatures on my account. And I authorise
8 her to draw on her own signature. Enclosed herewith
9 underneath is a copy or" - I beg your pardon - "is a
10 specimen of her signature."

11

12 Would you mind telling me, what's the need to go all
13 the way by air to Jersey to perform that function?

14 A. Well, Mr. Chairman, the situation in relation to the
15 mandate and the account was, as it was an account - as
16 it was a company name, the directors, whom were in - I
17 think were in Sark, they had to sign mandates - mandate
18 documents, and it was a question for me, as the
19 directors were myself and my wife; it was a question of
20 me clarifying the situation, that I would sign the
21 cheques. And in event of anything happening to me,
22 then that my wife would be in a position to sign the
23 cheques, in the event of my death or anything like
24 that.

25

26 It was a question of getting the legal people to sort
27 out that situation for me. That was the occasion -
28 that was the reason for the calls. And if you see the
29 mandate, as it was sorted out eventually in 1985,
30 that's the reason that was like that.

1 .

2 CHAIRMAN: I see. Thank you.

3 A. There was an exchange of correspondence between the
4 bank and the solicitors in relation to that in May of
5 '85.

6 .

7 CHAIRMAN: Thank you.

8 .

9 487 Q. MS. DILLON: The only requirement, Mr. Burke, in
10 relation to the mandate, was that the directors in Sark
11 would agree that you were a person who was authorised
12 to sign on the account. That's all that had to be
13 done. What was the necessity for you to travel to
14 Jersey?

15 A. It was my choice to go and make sure that my affairs
16 were correct, and it was better to do it, as I saw it,
17 on a face-to-face situation, because it involved my
18 wife, who - I will say, I resent some of the comments
19 that have been made about her in correspondence in this
20 Tribunal, but --

21 .

22 CHAIRMAN: Nobody - certainly nobody has made public
23 any comment about your wife. And I should be very
24 distressed if it was so. Please --

25 A. I am not going to drag her into it. But there has been
26 comments here, Mr. Chairman, about me, that there were
27 no apologies or that there - this didn't happen or that
28 didn't happen. There's been exchanges of
29 correspondence, which, I think, Mr. Chairman, if you -
30 I take it you would never have seen, but which I think

1 that, when the truth of the situation that had been
2 alleged had been clarified, that I thought at least a
3 little note of correction, if nothing else, would not
4 have gone astray.

5 .
6 I am not saying from you, Mr. Chairman, because - it's
7 a detail that you wouldn't see and wouldn't be expected
8 to see.

9 .
10 488 Q. MS. DILLON: If you are finished with that --

11 A. Sorry, Mr. Chairman, I don't want to get into a
12 controversy with the questioner, but can I say this to
13 you? It was a matter that I felt that I wanted to
14 raise with yourself here. It's not in any way to
15 distract from things. It's something that was
16 important to me.

17 .
18 CHAIRMAN: Can we just continue --

19 A. I'm sure you might have a look at it sometime,
20 Mr. Chairman.

21 .
22 CHAIRMAN: Could we just go ahead with the business of
23 the day? As far as I am concerned, if an offensive
24 exercise occurred, it is my regret that it happened.
25 It was unnecessary and I am sure it was not intended.
26 However, leave that matter and I'll look into it in due
27 course.

28 .
29 489 Q. MS. DILLON: There was no need, Mr. Burke, for you to
30 go to Jersey to open a bank account. It was your

1 choice to go to Jersey, in April of 1984.

2 A. Sorry?

3 490 Q. There was no need for you to go to Jersey, no

4 requirement for you to go to Jersey to open a bank

5 account in April of 1984.

6 A. But I decided I wanted to go and open the account. And

7 I decided, as the solicitors here had been dealing with

8 solicitors over there, I would like to put a face on

9 who I am dealing with. And I dealt with - and I met

10 the individual that had been the subject of the

11 correspondence. And I was - I have never dealt with

12 the particular bank before. And I like to - I like to

13 deal with the people directly myself. That's a matter

14 of choice, for me.

15 491 Q. That's what I said to you. That's the question that I

16 put to you. You didn't have to do it. It was a matter

17 of choice. You wanted to go, for whatever reason.

18 A. I went for the reasons that I've just given you, that I

19 wanted to face - a face on where I was dealing my

20 business.

21 492 Q. The same thing applied, if you went to Jersey in

22 October or, sorry, I beg your pardon, in November of

23 1984. If you went to Jersey, again it was a matter on

24 which you made a personal choice, and it was a matter

25 you had decided personally, that you would go and deal

26 with whatever it was that you were dealing with?

27 A. Yes. As I've outlined to you on a number of occasions

28 why I would have been going at that time in advance of

29 the transfer taking place. There is no suggestion that

30 I was there at the time the transfer actually took

1 place, but it would have been in - in relation to the
2 matters that I have already outlined.

3 493 Q. And insofar as April 1985 is concerned, again it was a
4 choice of yours to go to Jersey, in April of 1985, in
5 order to deal with the mandate?

6 A. That was - that's my recollection of the situation.
7 And it was clarified - that mandate issue, which had
8 been dragging on for a considerable time, was
9 eventually finalised, then, following my visit.

10 494 Q. So that if you were in Jersey on these three occasions,
11 it had nothing to do with the funds that were being
12 transferred into your accounts in or around that time?
13 It was a coincidence? It was related to other matters?

14 A. It was - the first one would have been on the opening
15 of the account and the transfer by me from the Isle of
16 Man account. But it was mainly the opening of the
17 account. The second - sorry, you asked me a question.

18 495 Q. Go ahead.

19 A. The second item would have been, if I was going, which
20 obviously I was in touch with Mr. Wheeler, but I don't
21 believe I actually went, was - the point I was making
22 to you, was - would have been in relation to this long
23 - this question of the mandate. I knew there was a
24 transfer going into my account, because I had given the
25 details of my account to Mr. McGowan. And the transfer
26 took place on the 22nd of November. But I don't
27 believe I was there at that time.

28 .

29 And the third one was in relation to the whole mandate
30 issue.

1 496 Q. Yes. The question I had put to you, Mr. Burke, which
2 you might like now to answer is: If you were in Jersey
3 on these three occasions, is it your evidence that it
4 did not have anything to do with the funds that were
5 then going to be transferred to Caviar Limited?

6 A. No, I've told you that the - in relation to the first
7 fund, that was in relation to my own transfer of the
8 35,000. That's the answer to the question.

9 .
10 In relation to the second, I've already answered. And
11 in relation to the third, I've already answered.

12 497 Q. So the position is: It had nothing to do with the
13 money? The reason you were in Jersey on these three
14 occasions had nothing to do with the funds that were
15 coming into the account, and that's your evidence?

16 A. No. That's not my evidence. What I said to you was
17 that the first time around I was there in relation to
18 the opening of the account. And that was the funds
19 going in on the day the account opened up, on the 19th
20 of April of '84.

21 .
22 So of course it had to do with funds, because that's
23 what I was doing, was opening an account, and I was
24 transferring money into it.

25 .
26 The second, and the third, I have already gone through
27 with you.

28 498 Q. Did you give Mr. Ernst Ottiwell the particulars of the
29 details of the Caviar account in the Isle of Man?

30 A. No - he would have been with Joe McGowan, is my

1 recollection of it, and I would have given the details
2 to Joe. Ernst would have been there, whether he wrote
3 them down or not, I don't know. But I gave the details
4 of the account to Joe McGowan. That is principally who
5 I was dealing with.

6 499 Q. Yes. Because you did, previously, tell the Sole Member
7 that you gave the details of that account to Mr. Ernst
8 Ottiwell?

9 A. No, but - if you give me the exact quote, rather than
10 what you've just read out there. That's not what I
11 said. If you get the exact quote.

12 500 Q. Question 472, Day 244, I think.

13 A. The exact wording.

14 501 Q. 244: Question: "Well, did he then come to you at some
15 point in time and say he had now finished his
16 fundraising efforts and he wished to make a deposit?"
17 This is about the 60,000 and Mr. McGowan?
18 "Answer: That was in advance. We discussed that he
19 wanted to move on. As I said to you, and as he,
20 himself, told the Tribunal, that he wasn't going to do
21 - he felt he had done his bit, which he had more than.
22 Then he was going to close it up. And I gave him the
23 details of the account, the details to Mr. Ottiwell,
24 who obviously organised them with Mr. McGowan, and it
25 was transferred in."

26 A. And I go on --

27 502 Q. We will just deal with this now, Mr. Burke, for the
28 moment?

29 A. Well, if you go on, you'll see --

30 503 Q. You say, "I gave them the details"?

1 A. "I gave them the details of the account." It was my -
2 my recollection of it was that Mr. Ottiwell was with
3 Mr. McGowan. And the main one that I would have been
4 dealing with was Mr. McGowan.

5 504 Q. So who did you give the details of the Caviar account
6 to?

7 A. I would have given it directly to Mr. McGowan, but
8 Mr. Ottiwell would have been in the company. But it
9 was to Mr. McGowan I gave the details.

10 505 Q. Because the thrust of your evidence, on Day 244 and Day
11 245, appear to attach some importance to Mr. Ottiwell's
12 part in all of this fundraising.

13 A. On the contrary, it was a peripheral part, and I
14 mentioned that at - I think at the end of 24 - 281 -
15 no. I'll give you the exact quotation.

16 506 Q. Yes. And that occurred - that quotation that you are
17 about to refer to, occurred after it had been disclosed
18 to the Tribunal that the ú50,000 came from Kalabraki,
19 and the ú60,000 came from Canio. Isn't that right?

20 A. No.

21 507 Q. In time sequence, Mr. Burke?

22 A. No, no, no. It appeared - the last time I was in the
23 box, during one of the six weeks I was in the box, at
24 that time I gave you the details.

25 508 Q. Yes.

26 A. But the - it was a very peripheral role. The main role
27 in that fundraising was the Brennan and McGowan Group,
28 Joe McGowan. That's the situation on it.

29 509 Q. Your description of Mr. Ottiwell's role in this affair
30 became very peripheral on the last occasion on which

1 you gave evidence, isn't that right?

2 A. I think I mentioned once or twice in the first occasion
3 that I was in - his role was, as I understood it from
4 Mr. McGowan, and I still don't understand the details
5 of his role, you'll have to ask Mr. McGowan that, but
6 my dealings in the main were with Mr. McGowan.

7 510 Q. Yes. Your understanding of Mr. Ottiwell's role, as you
8 described it to the Tribunal, that he was a coordinator
9 or treasurer?

10 A. That, as I understood it, from the evidence given by
11 Mr. McGowan, yes.

12 511 Q. And you would now say, Mr. Burke, or am I correct in
13 thinking that Mr. Ottiwell had a very peripheral role
14 in all of this?

15 A. Well, that seems to be the way it is, yes.

16 512 Q. So your position in relation to the evidence you gave
17 on Day 245 and Day 244, where you effectively agreed
18 substantially with the testimony of Mr. Joe McGowan, is
19 that it was always your belief, in connection with
20 these payments, that they came as a result of the
21 fundraising activities of Mr. McGowan and Mr. Ottiwell?

22 A. That was my understanding as I was told by Mr. McGowan.

23 513 Q. So it is Mr. McGowan who is the person who has led you
24 into an unclear view in relation to the matter, or has
25 left your understanding of the matter clouded until the
26 last time that you gave evidence?

27 A. No. That's my understanding of it, as Mr. McGowan gave
28 it in the box here on Day 144. And most of my
29 understanding came from his evidence at that time. I
30 had no reason to doubt Mr. McGowan's evidence at that

1 time.

2 514 Q. Yes. But it is now quite clear, Mr. Burke, quite
3 clear, that wherever else the money you got came from,
4 it did not come from the Ernst Ottiwell/Joe McGowan
5 fundraising, if there ever was such fundraising?

6 A. Well, I want to emphasise that the only money that I
7 got, and whatever other evidence has been given in this
8 box, the only other - the only money I got was the 60,
9 the 15, the 6 - the 50, 60, 15, and money - a couple of
10 thousand here and there of varying sizes, but always in
11 four rather than five figures at election time. That
12 is as much as I know about any other accounts.

13 515 Q. You got ú125,000?

14 A. Well, 60 and 15 and 50.

15 516 Q. You got ú125,000, and until this year, Mr. Burke, you
16 did not know the source of those monies, the true
17 source of those monies. Is that right?

18 A. I didn't know the true source of those monies until the
19 documentation in relation to - that I gave you in
20 relation to Kalabraki. You wrote back to me. I then
21 told you I didn't know the directors. I still don't
22 know the directors. I know that - it's Mr. Brennan's
23 company, and that's all I know about it. And that's
24 the situation. All I know is what you know at this
25 stage.

26 517 Q. Yes.

27 A. And the role of Mr. Finnegan in relation to the whole
28 thing has been - as being part of that fundraising, I
29 knew nothing about that. And that seems to be still
30 clouded, as just reading the transcript. So I know

1 nothing about who else was involved or who wasn't
2 involved.

3 518 Q. So insofar as this is described by Mr. Brennan and Mr.
4 McGowan, as political donations amounting to €125,000,
5 you, the political recipient, did not know who the
6 donors were?

7 A. I knew it was from the Brennan and McGowan Group. I
8 knew it was the - that - I was getting it from them. I
9 didn't know the background or the breakdown of it, how
10 much of it came from Brennan and McGowan, how much of
11 it came from outside. And that's the situation. And
12 that's the political fund that's still there.

13 519 Q. So for years, since 1982, you have not known that
14 Mr. Tom Brennan paid you that €50,000 out of his own
15 pocket, effectively?

16 A. That's precisely it. I knew it came from - we'll agree
17 to differ on this, but from my interpretation of the
18 group, from Brennan and McGowan, but not from - which
19 company, of which avenue at any time.

20 520 Q. So you didn't discover it until 2001?

21 A. I didn't discover it until I gave you Kalabraki. You
22 then went after the situation as to the - the specific
23 directors of Kalabraki. And it was then that I got the
24 information. I got it here in the box, I think it was,
25 the day that you gave - that it was given to me. And
26 that's the first that I knew about it. I still don't
27 know the other directors of Kalabraki, or if there were
28 other directors. I know nothing more about it. But
29 the core question, and the core point is this: There
30 is no misunderstanding and there was never any

1 misunderstanding on my part that it was coming through
2 the efforts of Brennan and McGowan.

3 521 Q. Insofar as political donations, as opposed to anonymous
4 donations are concerned, is it normal, in the political
5 world, that you would know the person who gave you the
6 money?

7 A. Yes, I would know Brennan and McGowan well, in this
8 case, yes.

9 522 Q. But you didn't know, in this case, that it was Mr. Tom
10 Brennan solely who was paying you the \$50,000?

11 A. Well, I don't know the internal workings of the - well,
12 I know the two men well. I don't know the internal
13 workings of every one of their companies, which I
14 gather runs to over 100 companies. So as to which
15 avenue they decided to use in relation to particular
16 funds, I have no knowledge of it and no detail of it.

17 .

18 So far as I was concerned, it was coming through - my
19 understanding of it, it was coming through their
20 fundraising efforts, and that's the situation.

21 523 Q. So that for whatever reason, it would appear, if your
22 evidence is correct, Mr. Burke, that Messrs. Brennan
23 and McGowan - McGowan, elected to keep you in some
24 degree of ignorance about the true source of these
25 funds?

26 A. Well, there was no question of being a source of
27 ignorance in relation to the fact that the money was
28 coming through them. As to which avenue, I don't know,
29 but as to which - sorry, which avenue, I had no
30 knowledge of it. And that has been made available to

1 me.

2 .

3 But there was no hiding the fact, and I didn't hide it
4 at any stage, that my understanding was that it came
5 from them, and I gave them the details of the accounts.

6 524 Q. So that your understanding was the same as Mr. Brennan
7 and Mr. McGowan, when they gave evidence on Day 144.
8 And you subsequently gave evidence on Day 244 and Day
9 245. You are all saying the same thing, isn't that
10 right?

11 A. Now we are into conspiracy theories here, I suppose.
12 All I am saying to you is that most of my evidence in
13 relation to it, and my understanding of it, came from
14 the evidence of Mr. McGowan in his evidence to this
15 Tribunal.

16 .

17 Now, part of which I vehemently disagreed with, but
18 that was his evidence to you.

19 525 Q. Yes. And both you, on Day 244 and Day 245, and Mr.
20 Brennan and Mr. McGowan on Day 144, all said that these
21 payments arose as a result of the fundraising
22 activities of Mr. Joseph McGowan and Mr. Ernst
23 Ottiwell, isn't that right?

24 A. That's what my understanding of it is, that I gave to
25 you here. And that it was from Brennan and McGowan. I
26 was also asked, how much of it would have been from the
27 Brennan and McGowan Group, individually, or how much of
28 it would have been from fundraising? And I answered
29 accurately and honestly, that I hadn't a clue as to how
30 much would have been from personal - from themselves,

1 or from the directors of the companies, or how much of
2 it came through the fundraising aspect of it. That's
3 the point.

4 526 Q. And is that all a coincidence, Mr. Burke, that you all
5 gave, effectively, the same evidence in connection with
6 this payment of the 60 and the 50?

7 A. My understanding of it, at the time, way back, was that
8 this was the source of fundraising. I brought that to
9 the attention of the Tribunal way back in 1999. And
10 since then I have - I listened - I didn't listen, I
11 read the transcript of Mr. McGowan's evidence, and Mr.
12 Brennan's evidence to you in - in April of 2000, on
13 page - on transcript 144. And there a lot of the
14 details that Mr. McGowan went into in relation to the
15 fundraising, the first I'd ever heard of.

16 527 Q. Sorry, the first you'd ever heard of it?

17 A. The first I had ever heard of a lot of the details that
18 he went into.

19 528 Q. I thought you told the Tribunal that you knew in a
20 general way of these fundraising activities?

21 A. Yes, but I am talking about - there is a difference
22 between detail in general.

23 529 Q. So that - is it the position, then, Mr. Burke, that you
24 based your evidence in Day 244 and Day 245, on what Mr.
25 McGowan had said on Day 144?

26 A. That a lot of the detail that Mr. McGowan had given was
27 given by me here on the basis that he had given
28 evidence under oath. I had given to Mr. Hanratty, when
29 he was asking me the questions here, Mr. Chairman, I
30 went into great - at great detail and great length to

1 explain to him at all times that this was my
2 understanding of the situation.

3 .

4 He then, at some stage in the questioning, actually
5 asked me, he said, "Well, is this your evidence? Did
6 you get most of this information from Mr. McGowan's
7 evidence?" And I agreed with him. That was the
8 situation.

9 530 Q. So that in giving your evidence to the Tribunal, you
10 based your evidence on Mr. McGowan's evidence on Day
11 144?

12 A. On my understanding of the situation as I had heard it
13 years back, and also had heard it in relation to his
14 evidence to the Tribunal. But it was a very basic
15 understanding of the situation that I had been told in
16 '82 and in '84.

17 531 Q. And it was all absolutely wrong, wasn't it?

18 A. I beg your pardon?

19 532 Q. It was all wrong?

20 A. Apparently it was that - some of it was wrong. And I
21 don't know how much Mr. Finnegan contributed or, et
22 cetera, but there is a $\text{ú}10,000$ figure being mentioned
23 there. But Mr. McGowan's information, that he gave to
24 me, or what happened to the balance of the money, I
25 don't know. I gave you my understanding.

26 533 Q. But it was all wrong?

27 A. But that was my understanding.

28 534 Q. But what I am saying to you is it was all wrong, and it
29 was all wrong, in the same way that Mr. McGowan was all
30 wrong when he gave evidence?

1 A. Well, now --

2 .

3 MR. WALSH: Sir, I think I have to object to that
4 question. That's asking Mr. Burke to become Chairman
5 of the Tribunal and usurp your role --

6 .

7 CHAIRMAN: I think you are right. That's a comment,
8 not a question.

9 .

10 535 Q. MS. DILLON: I'll come at it a different way.

11 .

12 Insofar as you attributed these monies, in your
13 evidence, to being part of the fundraising activities
14 of Mr. Joe McGowan and Mr. Ernst Ottiwell, do you now
15 accept that that was not the source of the funds that
16 you received?

17 A. The evidence that I gave, honestly and accurately, as
18 far as I understood it, and it was my understanding,
19 has been overtaken by events, and overtaken by
20 information that - part of which I gave to the
21 Tribunal, and part of which you followed up, and part
22 of which you have produced and has been heard in
23 evidence here. And I accept what you are saying, that
24 my understanding, and it was my understanding, that my
25 understanding was correct --

26 536 Q. Would it be fair to say that when you gave this

27 evidence, you believed it then to be true, but you now
28 accept that it's inaccurate?

29 A. I was given the information, and I gave the information
30 that I had to the Tribunal. That was my understanding

1 of the situation. And it is quite obvious that the
2 information that I had been given was incorrect.

3 That's fact.

4 537 Q. Now, Mr. Brennan and Mr. McGowan have now given
5 evidence, that certainly insofar as the €60,000 payment
6 was concerned, this was a donation for Ray Burke/Fianna
7 Fail. Was that your understanding of it?

8 A. Well, that would be my understanding for the whole lot
9 of it.

10 538 Q. Yes. So how much of it did you give to Fianna Fail?

11 A. Well, it's still there in the political fund.

12 539 Q. Yes. And has anyone asked you for it?

13 A. No, but I - I brought it to the attention of the leader
14 of Fianna Fail in 1998, the first time I met him after
15 I resigned. And I afterwards contacted the fundraiser
16 of Fianna Fail to inform him of the existence of the
17 fund. And I also informed them that the allocation, or
18 the distribution of that fund would take place after I
19 had received the proper advice and proper guidance in
20 relation to the distribution of it.

21 .

22 So nobody has asked me for it, but Fianna Fail are
23 aware of its existence.

24 540 Q. Did you pay any of that money, the €125,000 that you
25 got from Mr. Brennan's company, Kalabraki, and from
26 Canio Limited, did you pay any of that to Fianna Fail?

27 A. Not to - directly to Fianna Fail, but most of it is
28 still there in the political fund, as you are aware.

29 541 Q. You said that about Mr. Gogarty's payment and you said
30 exactly the same thing about Mr. Oliver Barry's

1 payment?

2 A. I am sorry, Mr. Chairman. Every time I mention this
3 particular - I am reluctant to even mention the number
4 at this stage. I am just at this stage using the
5 phrase "political fund". But if I am being asked in
6 relation to the 118, it's still there. I brought that
7 to the attention of Fianna Fail, to the leader of
8 Fianna Fail, and to the fundraiser, the chief
9 fundraiser of Fianna Fail, Mr. Richardson in - just
10 shortly after I had resigned.

11 542 Q. All right.

12 A. And it's still there. And the distribution of it has
13 to take place from that political fund.

14 543 Q. Right.

15 A. At a later stage.

16 544 Q. We'll take it nice and simple, Mr. Burke. You got
17 €50,000 on the 21st of December, 1982. It was a
18 political donation, you say, for Ray Burke/Fianna Fail?

19 A. That's right.

20 545 Q. That's right. How much of that fund did you pay to
21 Fianna Fail, and when did you pay it?

22 A. Well, it's like all of the rest of the funds that I
23 would receive. The funds that I would receive were
24 used for my on-going political activities, and as part
25 of my seamless existence, because 24 hours a day I was
26 a politician. And the funds would have been used to
27 benefit my campaigns and the campaigns of Fianna Fail
28 in North County Dublin, and the political activities of
29 Fianna Fail in North County Dublin and nationally in
30 bi-elections and everything else.

1 .
2 So as far as handing over a straightforward cheque is
3 concerned, no, but the funds would have been used by me
4 on behalf of the greater interest of Fianna Fail. And
5 very effectively used, when you consider the successes
6 we've had in North County Dublin during my time.

7 546 Q. Yes. Do I understand from your answer that you did
8 not, in fact, transfer any of the ú50,000 you received
9 in December, 1982, to Fianna Fail? Is that what you
10 are trying to say?

11 A. Yes. And that the balance of it - it is still there to
12 this day on the basis of the - my political life had
13 still been going on, and then I resigned following all
14 of the controversies, I resigned in 1997. And that
15 fund remains.

16 547 Q. Yes. And you told us in 1997 - sorry, I beg your
17 pardon, in 1999, and again this year, that the subject
18 matter of discussion between your advisers --

19 A. That's right.

20 548 Q. -- and when you were having your discussion with the
21 Taoiseach, as I think you've referred to, did you, at
22 that stage, indicate to him you'd received ú50,000 in
23 December, 1982?

24 A. I didn't get into the size of the fund at all. I told
25 him I had a substantial fund available to me. That was
26 still there when I resigned from public life, and that
27 it is still there, untouched. And it's - that's what I
28 informed him.

29 .

30 And because of the circumstances of the occasion that I

1 informed him, it was the night of the bi-election that
2 was held to fill my seat - they lost it, by the way -
3 but that was the night of the bi-election, I then, a
4 couple of weeks later, because this was a night with a
5 lot of people around, I wanted to make sure that the
6 organisation, as such, knew about it, as well as the
7 leader, that I informed the fundraiser, Mr. Richardson,
8 of that fund.

9 549 Q. Did you tell them the history of the fund?

10 A. No, I didn't get into any of that. I just told him
11 about the existence of it and that I would be in touch.
12 That's all.

13 550 Q. And did you indicate that these were funds paid to two
14 off-shore bank accounts that you had, one under a
15 company name, one in the Isle of Man, one in Jersey,
16 did you discuss any of that out of this political fund?

17 A. I didn't get into any of that at all with him. I told
18 him of the existence of the fund that remained from my
19 political contributions, that I had got over the years.
20 Some it would have been the Gogarty money, part of the
21 Gogarty money as well. So it wasn't just the Brennan
22 and McGowan money, it was the - part of it was Gogarty
23 money as well; that it was all there, and the
24 distribution of it would take place at a later stage.

25 551 Q. Why didn't you hand it all over to them?

26 A. Why didn't I hand it all over to them?

27 552 Q. If this fund was partly comprised of monies that you
28 say were given to you on your own behalf and on behalf
29 of Fianna Fail, and you are now out of politics in
30 1997, and you have this fund that's a milestone around

1 your neck, as you've described it here on numerous
2 occasions, why didn't you just lob it all over to
3 Fianna Fail and say, "There it is, take it"?

4 A. Because I have to take guidance in relation to the
5 situation in relation to the fund, from accountants and
6 from lawyers. And if I have to get into the spelling
7 out of that - Mr. Chairman, it is still there, I won't
8 benefit from it. I told you that upteem times. You
9 must be sick in the face, Mr. Chairman, listening to me
10 telling you that.

11 .
12 I don't want to get into it again. But it's there. I
13 won't benefit from it. And it will be distributed when
14 I get the guidance in relation to its distribution.

15 553 Q. So that am I correct --

16 A. Can I just finish? I will not benefit from one penny
17 of that at the end of the day.

18 554 Q. Okay. I think we've got that point, Mr. Burke.

19 A. Well, I try to help.

20 555 Q. Is it the position, then, that when you were discussing
21 your political fund with either the Taoiseach or
22 Mr. Richardson, as you've described, you did not
23 disclose to them the origins of this fund, it being
24 based in off-shore accounts and held in company names,
25 which are registered outside the jurisdiction?

26 A. I didn't get into the details of the funds. Neither
27 circumstances would have been appropriate. In
28 particular, the discussion I had with the Taoiseach in
29 the night involved - to get into details of monies and
30 funds and everything else, it was the existence of the

1 fund that I brought to the attention of both gentlemen.

2 556 Q. And were there any difficulties at that stage in paying
3 over the fund?

4 A. I am subject to guidance and advice in relation to the
5 fund, and the distribution of it on the basis of the
6 accountancy advice. Really, it's - that's what I am
7 waiting on. When I get that guidance, and finality of
8 the situation, it will be great pleasure for me to get
9 rid of this particular encumbrance.

10 557 Q. So the position is, insofar as these - this money is
11 concerned, or this fund is concerned, Mr. Burke, that
12 it was paid off-shore. You didn't know who was paying
13 it, until this year. You didn't know who the true
14 source of this money was until the year 2001, even
15 though the first payment is December, 1982. Is that
16 right?

17 A. No. I knew that the money was coming from Brennan and
18 McGowan. That's where the evidence has since shown,
19 that it came from Brennan and McGowan. I thought it
20 was - my understanding of it was that they had done
21 some fundraising for it. I gave that understanding to
22 the Chair. As to the specifics, I emphasise at all
23 times that I didn't know the avenues that were used or
24 the particular vehicles of accounts that were used by
25 Brennan and McGowan, and that the fund remains there to
26 this day.

27 558 Q. And the man who gave you €50,000 in December, 1982,
28 never went to you and claimed credit for it, never
29 said, "By the way, Mr. Burke, by the way, Ray, that was
30 my payment"?

1 A. No, he did not individually say that at all. That
2 wouldn't - and I wouldn't expect him to, because the
3 situation is that it came through the group, and it
4 would have been the group that I would have spoken to
5 at all times.

6 .
7 You would be misunderstanding the relationship and the
8 friendship that we would have had, going back to the
9 '60s, to try and paint the picture in the way you have
10 just done.

11 559 Q. You are not suggesting that Mr. Brennan wouldn't have
12 any reason to keep secret from you the fact that he
13 paid you 50,000?

14 A. The fact that it came out of his funds, as distinct
15 from the Brennan and McGowan fund, are - Brennan and
16 McGowan funds, I would have no reason to believe a
17 level of secrecy whatsoever. There was no secret as
18 from me that it had come from Brennan and McGowan,
19 because I had given the details of it to Mr. McGowan.
20 That's the situation.

21 .
22 As to the avenue of it, is the word I keep using, I am
23 sure there is a better word, Mr. Chairman, but the
24 particular channel of it, I wasn't aware of. But there
25 is no question and no secret that it came through
26 Brennan and McGowan.

27 .
28 MS. DILLON: Sir, I am going move on to deal with
29 something else.

30 .

1 CHAIRMAN: I think we'll conclude business for the day.

2 Tuesday morning, 10:30.

3 .

4 MS. DILLON: I am obliged, Sir.

5 .

6 CHAIRMAN: Thank you.

7

8 THE TRIBUNAL THEN ADJOURNED TO THE 13TH OF NOVEMBER,

9 2001, at 10:30 A.M.:

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