

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 13TH OF
2 NOVEMBER, 2001, AT 10:30 A.M.:

3 .

4 THE CHAIRMAN: Good morning everyone.

5 .

6 MS. DILLON: Good morning, Sir.

7 .

8 REGISTRAR: Good morning, ladies and gentlemen.

9 .

10 The Tribunal will be sitting not before 11 o'clock, due
11 to some problem on the technological front.

12 .

13 MS. DILLON: Good morning, Sir.

14 .

15 I am happy to tell you that, due to the period of time
16 that you granted the adjournment, the technological
17 difficulties have been sorted.

18 .

19 I also understand that Mr. Hayden wishes to make an
20 application to you, at five to one today, in connection
21 with an adjournment of the proposed closing date for
22 receipt of the submissions in the Brennan and McGowan
23 Module. Just to indicate that to you.

24 .

25 I understand Mr. Hayden will be here himself at five to
26 one to make the application.

27 .

28 Mr. Burke, please.

29 .

30 .

1 MR. RAPHAEL BURKE RETURNS TO THE WITNESS-BOX AND
2 CONTINUES TO BE EXAMINED BY MS. DILLON AS FOLLOWS:
3 .

4 1 Q. MS. DILLON: Mr. Burke, you remember when you
5 previously gave evidence, that you had initially
6 indicated to the Tribunal that the €15,000 that you had
7 withdrawn on the 9th of April, 1985, was redoged on
8 the 19th of April, 1985?

9 A. That's correct. And I subsequently found that that was
10 not correct - my recollection was not correct, and I
11 corrected that with the Chairman.

12 2 Q. And that the €15,000 lodgement on the 19th of April,
13 1985, was, in fact, a direct payment from a Jersey
14 registered company called Canio Limited?

15 A. That's correct.

16 3 Q. If we could have 5242, please.

17 .
18 This, you will see, Mr. Burke, is the withdrawal from
19 the Caviar Limited account in the Isle of Man. And you
20 will see at the bottom that your instructions were that
21 it would be collected in cash in Hill Samuel at Wood
22 Street. You can see that on the screen in front of
23 you?

24 A. That's correct.

25 4 Q. Subsequently, then, a sum of €15,000 was redoged on
26 the 19th of April, 1985. 5243, please.

27 .
28 And while it's somewhat indistinct, the figure there is
29 €15,000. If we scroll down it says:

30 .

1 "We acknowledge receipt of your cheque."

2 .

3 And it's per Chase Bank and Trust Company (Channel

4 Islands) Limited?

5 A. That's correct.

6 5 Q. And that is the ú15,000 from Canio?

7 A. That's correct.

8 6 Q. Now, can I ask you, then, what did you do with the

9 ú15,000 that you withdrew?

10 A. I would have used it during the election of 1985.

11 7 Q. Could we have 5242 back again, please.

12 .

13 You withdrew this sum of ú15,000 on the 19th April,

14 1985, and you collected it in London, in cash?

15 A. That's correct.

16 8 Q. So did you bring it back in Sterling, in cash to

17 Ireland?

18 A. I would have, yes.

19 .

20 MR. WALSH: To correct a date, I think it's the 9th of

21 April is the correct date.

22 .

23 9 Q. MS. DILLON: The date on the statement is the 9th of

24 April, 1985. And the maturity date is the 9th April,

25 1985.

26 .

27 But on the 9th April, 1985, Mr. Burke, you withdrew

28 ú15,000 in cash?

29 A. That's right, yes.

30 10 Q. Now, would you outline to the Sole Member what you did

1 with the €15,000 when you got it?

2 A. Well, my memory, which has proven to be incorrect, was
3 that it was relodged. But that has been already sorted
4 out. It would have been used during the period of the
5 local elections.

6 11 Q. But the position is, Mr. Burke, it's not just a
7 question that you forgot about it. You also forgot,
8 when you were giving your evidence earlier, that you
9 spent €15,000 on that election, isn't that right?

10 A. Sorry, Mr. Chairman. It's not a question of forgetting
11 that I spent the money on the election. I would have
12 spent that money on the election. I made - the mistake
13 was in relation to the relodgement.

14 12 Q. There is no sign of that €15,000 in any of your bank
15 accounts, isn't that right, Mr. Burke?

16 A. It wouldn't have been lodged. It would have been used
17 during the campaign.

18 13 Q. So you are telling the Sole Member of the Tribunal that
19 in a local election in 1985, you spent the equivalent
20 of €15,000 Sterling?

21 A. Between that and the on-going political - my on-going
22 political career.

23 14 Q. Yes. And yet you were not in a position to recollect
24 spending €15,000 on the local election in 1985 on the
25 previous occasions in which you gave evidence in
26 connection with this transaction?

27 A. I didn't recollect it, no.

28 15 Q. No. Is that because it didn't happen?

29 A. I beg your pardon?

30 16 Q. Is that because it didn't happen? That you didn't

1 spend the ú15,000 on the local elections?

2 A. Well, I had a very expensive local election and
3 on-going political expenditure after that as well.

4 That's the situation on it.

5 17 Q. You haven't remembered, or didn't remember, Mr. Burke,
6 spending ú15,000 on the local elections in 1984 until
7 the very recent past?

8 A. Oh, no, it would have - always recall spending money at
9 election time, as I've gone through it here with you on
10 many occasions.

11 18 Q. Yes. And what you had said previously, in relation to
12 the ú15,000, was you had withdrawn it for the local
13 elections, decided you didn't need it and you put it
14 back into the account in Jersey?

15 A. That would be my recollection of it, which was wrong.

16 19 Q. And you didn't, on that occasion, indicate to the Sole
17 Member that you had, in fact, recollected, independent
18 of your memory of that transaction, spending ú15,000 on
19 the local elections in 1985?

20 A. Well, this is all coming to focus now. It's a long
21 time ago. I was wrong in my recollection, and I
22 apologise for that.

23 20 Q. So is it the question that - is it the situation, then,
24 Mr. Burke, that your recollection that you spent
25 ú15,000 on the local election in 1985 is something that
26 has happened since you discovered that you were
27 incorrect in your earlier testimony about this being a
28 relodgement?

29 A. Sorry, I would have to hear that again.

30 21 Q. Is it the position, Mr. Burke, that your recollection

1 that you spent this sum of €15,000 on the local
2 elections in 1985 is a recollection that occurred to
3 you after you had discovered your earlier evidence was
4 incorrect?

5 A. No. I would have spent a considerable amount of money.
6 I am not saying it was all spent by election day. It
7 would have been spent at that time, and after that, on
8 my on-going political activities.

9 22 Q. Do you have any receipts in connection with this
10 expenditure?

11 A. Not at all. You wouldn't have receipts at that time.

12 23 Q. What expenses did you incur in 1985 in connection with
13 the local election?

14 A. You would incur on-going expenses, the normal type
15 expenses of workers and teams, canvassing teams,
16 looking after them, and literature, and all of the
17 expenses that are involved in an election.

18 24 Q. Are you saying that you spent €15,000 on providing
19 refreshments for your canvassing teams, together with
20 literature?

21 A. I am not saying that that's - that specifically. You
22 asked me in a general way. I am giving you some of the
23 examples of how it would have been. Also the - this
24 money would have been - that's in April, and it would
25 have been on - I was still a TD at that time, and on
26 the frontbench of Fianna Fail at that time, and right
27 after the election as well. So that money would have
28 been not exclusively for the local election, but would
29 have been mainly at the time of the local elections.

30 25 Q. How much did you spend in the local election?

- 1 A. I wouldn't have a clue at this stage, from this
2 distance in time.
- 3 26 Q. How did you deal with it, if it was in Sterling?
- 4 A. It would have been transferred into Punts.
- 5 27 Q. How did you transfer it into Punts?
- 6 A. I can't recall at this stage, but undoubtedly I would
7 have gone to the bank in Dublin Airport and just
8 transferred - just exchanged it. But I have no details
9 of that.
- 10 28 Q. And would you have done it as and when you needed to
11 draw from the ú15,000?
- 12 A. I don't recall that.
- 13 29 Q. And would it be your normal practice, if you had
14 ú15,000 in Sterling, to take out what you needed out of
15 it to meet whatever expense you had at that particular
16 time, go to the bank, change the money, and then spend
17 the money?
- 18 A. I can't recall at this distance in time as to exactly
19 the procedure.
- 20 30 Q. Do you have any recollection of taking the ú15,000 in a
21 lump sum down to the Ulster Bank and converting it to
22 Irish Punts?
- 23 A. I don't, because my recollection in relation to it was
24 incorrect once, and I am not getting into it a second
25 time. I have no - as I don't have a specific
26 recollection of doing it in a particular way, either in
27 one transaction or piecemeal - I don't recall it, so I
28 am not going to speculate on it.
- 29 31 Q. You don't recall actually spending this money,
30 Mr. Burke, isn't that right, on the local --

1 A. Not particularly pound for pound out of this money. I
2 am talking to you about the funding of the local
3 election at that time.

4 32 Q. We'll have to get a little bit more specific than that,
5 Mr. Burke. Do you have a specific recollection of
6 spending this sum of ú15,000 on the local election in
7 1985?

8 A. I would have spent part of it on the local election and
9 part of it on the on-going political work, as I just
10 outlined to you.

11 33 Q. Approximately how much would you have spent on the
12 local election?

13 A. I wouldn't have a breakdown on it at this time.

14 34 Q. Do you have any recollection of attending any financial
15 institution in order to convert this into a tender you
16 could use?

17 A. No, I don't. But undoubtedly it would have been
18 through the Bank of Ireland in - or not the Bank of
19 Ireland, in the Ulster Bank at Dublin Airport.

20 35 Q. Other than your evidence now today, that you expended a
21 portion of that money on the local elections in 1985,
22 there is no documentation of any description in
23 relation to how that ú15,000 was spent, isn't that
24 right?

25 A. I don't have any documentation going back to that
26 period, as far as the 9th of April, '85.

27 36 Q. And certainly, in so far as your Irish bank accounts
28 are concerned, there is no indication that that sum, or
29 any portion of that sum, was lodged to any of your
30 Irish bank accounts?

1 A. It wouldn't have been lodged. I told you what happened
2 to it, and you'll see it's the same in relation to
3 other returns that are - money that's taken out of the
4 Jersey account. It's either - all brought back in
5 cash. Some of it was spent, some of it was relodged.

6 37 Q. Most of the money you took out for on-going election
7 expenses, once it's taken out of the bank account,
8 either in Jersey or the Isle of Man, it disappears, in
9 the sense that the only evidence the Tribunal has as to
10 how it was spent is your evidence, isn't that right?

11 A. Yes. And you have evidence in relation to some of the
12 accounts over the years, with cheques, et cetera, that
13 were spent. We went through that before.

14 38 Q. Yes. Did you have any other bank accounts, other than
15 the ones that you've disclosed to the Tribunal?

16 A. At that time?

17 39 Q. Yes.

18 A. At that particular time, not to the - no, I hadn't.
19 Not at that particular time. But I want to say this to
20 you, that I have given you worldwide - given to the
21 Tribunal, Mr. Chairman, worldwide consents to find
22 accounts belonging to me anywhere, at any time, because
23 I wanted to cooperate fully with you. And that's the
24 situation on it.

25 40 Q. The Tribunal wrote to you, Mr. Burke, on the 4th of
26 May, 2001, and asked you to confirm, by return, whether
27 or not you had lodged, transferred or conducted
28 transactions concerning accounts in any branch of Bank
29 of Ireland outside the State?

30 A. That's right.

1 41 Q. And your solicitors wrote back to the Tribunal on the
2 10th of May, 2001. And the letter from Mr. Vincent
3 Shannon states:

4 .
5 "Our client confirms he has not lodged, transferred or
6 conducted transactions concerning accounts at any
7 branch of Bank of Ireland outside the State."

8 .
9 A. That's correct. And that was my recollection of the
10 situation. And we also sent you at that time a consent
11 to go to the Bank of Ireland anywhere worldwide. And
12 we also sent you similar consents in relation to Bank
13 of Ireland way back in the - over the last number of
14 years, when you were looking for records of my
15 accounts. And we cooperated fully with you.

16 42 Q. They are your bank accounts, Mr. Burke, isn't that
17 right?

18 A. That's correct.

19 43 Q. And you are the person who opened them, you are the
20 person who put the money into them, the person --

21 A. That and my company.

22 44 Q. Isn't that correct?

23 A. That would be correct.

24 45 Q. Yes. So that the person whose property these bank
25 accounts are, or were, is not the Tribunal, it's
26 Mr. Raphael Burke?

27 A. That's right, yes.

28 46 Q. Now, was that information that was furnished by
29 Mr. Shannon, on your instructions, on the 10th of May,
30 2001, correct?

1 A. No, as it turns out it wasn't correct. If I may say to
2 you, Mr. Chairman, that your Terms of Reference, and we
3 discussed this the last day, were originally to 1985,
4 and they were then extended, in July of '98, to go back
5 further than the 1985 period. And on the 16th of
6 September, '98, I went to the Bank of Ireland in
7 Whitehall and I gave them a letter. If I can give you
8 the reference number? Reference PLICRB 12, page number
9 15. It's a handwritten letter of mine to Mr. W Field,
10 Bank of Ireland, Whitehall, and it says:

11 .
12 "Dear Mr. Field, as a former customer of your bank, I
13 request copies of my accounts from closure to as far as
14 possible. Accounts were in the name of myself and Mr.
15 Burke Limited (and correspondence file, if possible).
16 Many thanks, Ray Burke."

17 .
18 I was looking from the bank for all of my records.
19 There is no reserve put in there. There is no attempt
20 to hide anything. I am looking for everything. I got
21 some records from them that were not relevant at the
22 time because I - these accounts were all closed at the
23 time.

24 47 Q. 5378, please.

25 A. Yeah.

26 48 Q. You got records from Bank of Ireland on foot of your
27 requests, Mr. Burke?

28 A. I got some records from the Bank of Ireland, but they
29 didn't come within the terms of the information that I
30 was requested at that stage.

1 49 Q. Yes. And --

2 A. I got - I also then - you had also requested it. So I
3 assume you got all the documentation as well.

4 50 Q. Yes. In any event, if we can go back to the question
5 that I asked you, Mr. Burke. Right. Which is it was
6 furnished through your solicitor, to the Tribunal, on
7 the 10th of May, 2001, that you did not have any
8 accounts, or transferred, or lodged, or conducted
9 transactions at any Bank of Ireland branch outside the
10 State, correct or incorrect?

11 A. It turns out now to be incorrect. Going back to one in
12 1971 and one in, I think, 1973, which undoubtedly we'll
13 come to now. But I asked for my records from the bank.
14 I had no recollection of these, that you are going back
15 thirty years, one of them for ú5,000. I have no
16 recollection of it at the time, and I gave you the
17 information that - and all consents. I have no desire
18 to hide anything from you, and I just want to cooperate
19 with you.

20 51 Q. Did you write a similar letter to other banks?

21 A. No, because I hadn't got the other banks - the banks
22 that I dealt with in my time were the two neighbouring
23 banks, or three, actually; the Bank of Ireland and the
24 Ulster Bank.

25 52 Q. Could we have page 5377, please.

26 .

27 This is a record of a deposit account held for your
28 benefit in Bank of Ireland in Manchester?

29 A. That's right.

30 53 Q. The account is opened on the 6th of December, 1974, and

1 it's closed on the 28th of December, 1977?

2 A. That's right.

3 54 Q. If you look first of all, Mr. Burke, at the closing
4 statement?

5 A. Yes.

6 55 Q. You see that sum, ú14,584.49?

7 A. That's right, yes.

8 56 Q. The Tribunal wrote to you about that lodgement. That
9 sum was subsequently lodged to your current account,
10 isn't that right?

11 A. It turns out now it was. You wrote to me about it,
12 asking me about it, and I wrote back to you. And I
13 told you that I had no record at that time of the sum,
14 of the figure, and - which I hadn't, and I was
15 delighted when you found it, because it showed where
16 the money had come from.

17 57 Q. So this account was disclosed to the Tribunal last
18 week, Mr. Burke. And up to that point in time, the
19 only information that the Tribunal had about bank
20 accounts in Bank of Ireland outside the State would
21 have been information it could have obtained from you?

22 A. But I tried to obtain it from the bank --

23 .

24 MR. WALSH: Sir, I just want to correct a date. These
25 documents came to light from the Bank of Ireland, I
26 think last June, so the Tribunal have known about them
27 since June.

28 .

29 MS. DILLON: I think the full file of this, a redacted
30 form of the file was furnished by Bank of Ireland on

1 foot of the consent that was originally given by
2 Mr. Burke, which was limited to his mortgage account.
3 The full form of - and the original of this file was, I
4 think, received by the Tribunal from Bank of Ireland on
5 foot of a communication with Mr. Vincent Shannon, I
6 think, and Ms. Dominic Cleary, last week. The full and
7 the entire contents of this file were furnished to the
8 Tribunal.

9 A. That's not correct --

10 .

11 MR. WALSH: Sir, by letter of the 21st of June
12 addressed to the Tribunal, and copies of which were
13 furnished to us, from Dominic Cleary, the Legal Officer
14 at the Bank of Ireland Group, the file in relation to
15 the mortgage account, the bridging loan and so on, was
16 furnished on the 21st of June, 2001. Included in that
17 was this page here on the Manchester account, and
18 correspondence relating to the Manchester account.

19 .

20 MS. DILLON: I can check that out in case I am
21 inaccurate in relation to that. My understanding in
22 relation to this, and the account in Belfast, is
23 because they were not transactions in relation to the
24 mortgage account, when Bank of Ireland sent us the
25 mortgage information that they had, it did not include
26 this information. If I am incorrect in relation to
27 that, I will correct it on the transcript after lunch.

28 .

29 MR. WALSH: I'll give you the page reference, for that
30 page that's on the screen at the moment; that was page

1 18 in the book which we received by hand on the 22nd of
2 June, 2001.

3 .

4 58 Q. MS. DILLON: I have no doubt that - well, I'll clarify
5 that over lunch, and if I am incorrect --

6 .

7 Be that as it may. Mr. Burke, in any event, you did
8 not disclose the existence of this bank account to the
9 Tribunal?

10 A. And neither did the bank itself in its original
11 submission to you. And it was only in the context of a
12 letter which we got from the - that the bank sent into
13 you on the 21st of June, that the - this particular
14 document came to light.

15 .

16 I had no recollection of it, one way or the other,
17 between that and the other one, the 5,000 in Foster
18 Finance. I have no recollection of them. They go
19 back, some of them, nearly 30 years, one of them 25
20 years. It was all done through the Bank of Ireland in
21 Whitehall. It was done with the manager in the Bank of
22 Ireland in Whitehall, who managed my affairs.

23 .

24 I went to the Bank of Ireland in Whitehall, when the
25 Terms of Reference were extended, and asked for all
26 documentation in relation to my affairs, and this never
27 came near me, or anything else.

28 .

29 There were other accounts that never came either, and
30 when you asked me for authorities, I gave you the

1 authorities. That's the situation on it.

2 59 Q. Yes. The position is, I think, Mr. Burke, that you did
3 not disclose the existence - the question was: Did you
4 disclose the existence of this account to the Tribunal?
5 The answer is either "yes" or "no"?

6 A. I did not tell the Tribunal about an account of which I
7 had no recollection going back 25, 26 years, in one
8 case, and in another case, 30 years, that was opened,
9 one in 1971, closed in 1972, of ú5,000. I have no
10 recollection whatsoever.

11 60 Q. Do you have any idea of the sources of the funds that
12 were used --

13 A. No --

14 61 Q. -- as lodgements to this account?

15 A. They would have been from commissions of PJ Burke
16 (Sales) Limited. And this account would have been a
17 reserve account to build up funds at that time, rather
18 than leaving them on a current account. It would have
19 been on deposit to get some interest. That's the
20 situation on it.

21 .

22 But I don't have the details of any particular
23 lodgements.

24 62 Q. Is this a PJ Burke account that we are looking at on
25 the screen?

26 A. No, it's in my name.

27 63 Q. I understand that. If we can just clarify what you are
28 saying. Are you saying that these funds were placed on
29 deposit in this account to have a deposit account for
30 PJ Burke (Sales) Limited?

- 1 A. No. It would have been to gain interest, rather than
2 just to leave them on a current account situation.
- 3 64 Q. So are these your personal monies in this account?
- 4 A. Well, I owned 99 percent of it. It was owned by me, PJ
5 Burke (Sales) Limited.
- 6 65 Q. The account that's on screen at the moment?
- 7 A. Is in my name.
- 8 66 Q. I accept that it's in your name. The monies that are
9 standing to the credit of that account, were they
10 beneficially owned by you or were they beneficially
11 owned by PJ Burke (Sales) Limited?
- 12 A. Well, they would have been treated by me as a reserve
13 account, and the money would have been the directors'
14 loan account, I assume, that would have been dealt with
15 at the time. So that would be to the best of my
16 knowledge and recollection. It's going back since
17 1974. What are we now? 2001. I have no recollection
18 of it whatsoever.
- 19 67 Q. The €14,584.49 that's withdrawn and used to close the
20 account on the 27th of December, 1977, was not lodged
21 to any account of PJ Burke (Sales)?
- 22 A. No, it was lodged to my account.
- 23 68 Q. To your personal account?
- 24 A. To my personal account. It went into the account on
25 the 30th of December of 1977, into 13932384. It would
26 have been to directors' loans.
- 27 69 Q. Were you in receipt of payments from PJ Burke (Sales)
28 at that time?
- 29 A. I would have, over the years, have dealt with the
30 funding of - from PJ Burke (Sales) Limited. Obviously,

1 it would have been treated mainly as directors' loans

2 --

3 .

4 CHAIRMAN: Pardon my interfering - my interrupting.

5 Are you saying, Mr. Burke, and I just want to clarify

6 this; that you lodged the 15 - sorry, the 14,584.49 to

7 a PJ Burke account so that you offset the directors'

8 loan? Is that what you are saying? Or that you simply

9 lodged it to your own account, and it was in due course

10 treated as a repayment on a director's loan?

11 A. That is what I am saying.

12 .

13 CHAIRMAN: I just want to be clear on that.

14 A. That's the situation.

15 .

16 CHAIRMAN: It's an ordinary account that you put it

17 into.

18 A. It was in my personal account.

19 .

20 CHAIRMAN: I just want to make certain that I had got

21 it clear.

22 .

23 70 Q. MS. DILLON: There is no address and no bank account

24 number on this deposit book, Mr. Burke?

25 A. I beg your pardon? Sorry?

26 71 Q. There is no address.

27 A. On the?

28 72 Q. The document that's on the screen.

29 A. Yes.

30 73 Q. There is no account number?

1 A. No. But the correspondence file that's with - that has
2 been made available to me, shows the transfers, time
3 after time, coming from Mr. McEvoy, the manager, to the
4 Manchester account. And the account is opened through
5 - a Whitehall account, and Mr. McEvoy is the manager
6 there at all times.

7 74 Q. Was it the position that you transacted your business
8 in relation to this account by giving directions to
9 Mr. McEvoy in relation to the various lodgements, and
10 he would transfer the money to Manchester?

11 A. Yes, that was the situation. I was dealing with the
12 branch in Manchester. I only dealt with the - I was
13 never in the Manchester account. I don't know anything
14 about it. My only business was with the branch in
15 Whitehall.

16 .
17 Also, Mr. Chairman, I mention this, just in passing,
18 that the two lodgements of - in '76, the bulk of the
19 money, the 5 and the 3, in particular the 5, that came
20 out of a PJ Burke account out to the island there, or
21 out to Manchester.

22 .
23 The other one was - from what I can see of the records,
24 and I am subject to correction on that, the other point
25 I would make in relation to it, in June of '76 - I have
26 the reference number. It's page number 100, PLICRB 12.
27 It's a copy I have here. There was the threat of a
28 bank strike going on in 1976, which eventually did take
29 place, and that money was - a facility was provided for
30 me there, that the money would be available in a

1 current account, and a cheque book, rather than just a
2 deposit account, because I didn't want to be left in
3 the situation that I would not have access to funds in
4 the event of a bank strike. That's the situation of
5 it.

6 75 Q. The opening lodgement on that account, Mr. Burke, is
7 the 6th of December, 1974. I trust you are not
8 suggesting to the Sole Member that there was any threat
9 of a bank strike at that period in time that
10 necessitated your opening this account?

11 A. No, I am not suggesting anything of the sort. I am
12 merely suggesting - I am clarifying for the Sole Member
13 - for the Chairman, that this is a situation of - that
14 it wasn't just deposit, that at one stage it was also
15 current. Because if I don't say it, at this stage I
16 would probably be asked about it later on. I am merely
17 saying it to you now.

18 76 Q. If you see the withdrawal of ú10, Mr. Burke --

19 A. Of what?

20 77 Q. ú10, and the five lines - four lines from the bottom,
21 on the 30th of the 6th, '96, that is a withdrawal to
22 enable you to open a current account in Manchester in
23 the event of a strike, and they furnished you with a
24 cheque book which was sent on to Bank of Ireland,
25 Whitehall, isn't that right?

26 A. That's right.

27 78 Q. So whatever may have been your reason, due to the bank
28 strike, for opening a current account that was running
29 in tandem with this account in June of 1976, when you
30 opened the account in December 1974, it could not

1 possibly be a bank strike or threatened bank strike
2 that necessitated the opening of this account?

3 A. I am not suggesting that at all. I am suggesting that
4 there was a linkage between the larger deposit of 5,000
5 and that particular period.

6 .
7 I am not making an issue of that. I am merely just
8 clarifying it for the Chairman.

9 79 Q. It's clear from the correspondence file, that that
10 transfer of ú10,000 to the current account re letter
11 arises on foot of a letter sent by Mr. McEvoy, asking
12 the Manchester bank to extend to you additional
13 facilities in view of the imminence in June of '76 of
14 the bank strike. Isn't that right?

15 A. I don't see a lodgement of 10,000. You are talking
16 about 5,000 there.

17 80 Q. I am talking about the ú10 lodgement.

18 A. The ú10. The ú10, that's it for me. Yes, that's
19 right.

20 81 Q. And the first letter on file indicating that you
21 require facilities in the event of a bank strike is
22 June of 1976?

23 A. That's correct, yes.

24 82 Q. And prior to June of 1976 there is nothing on the
25 correspondence file to indicate any concern on your
26 part in connection with any bank strike, isn't that
27 right?

28 A. That's absolutely right.

29 83 Q. Right. So that the lodgements of ú5,000 and ú3,000
30 that are made in January and February 1976,

1 respectively, had nothing whatsoever to do with the
2 bank strike, isn't that right?

3 A. I wouldn't say that the second one in 1976 - the 5,000,
4 I would say, had to do with the suspicion of it coming.
5 But as well as that, as I say, it was the question of
6 having an account on deposit, earning interest, rather
7 than just sitting in a current account. That's the
8 situation.

9 84 Q. There is nothing in February 1976 on this file to
10 indicate you had any concern about an imminent bank
11 strike?

12 A. No, that's true. And I am not making an issue of it at
13 all.

14 85 Q. Very good. So, insofar as the opening of this account
15 is concerned, you were motivated, as I think you've
16 told the Sole Member, by interest features, is that
17 right?

18 A. It would have been interest features. It would have
19 been to - rather than having the funds on deposit, it -
20 or on current accounts, it would have been mainly on
21 interest features. But I would have done all of this,
22 everything there is done through the Bank of Ireland in
23 Whitehall.

24 86 Q. Through Mr. Delany --

25 A. To Mr. McEvoy.

26 87 Q. Mr. McEvoy. The then bank manager?

27 A. That's correct. It's his name that appears, among
28 other things, yes.

29 88 Q. And this deposit book was held for you at Bank of
30 Ireland, Whitehall, is that right?

1 A. I have no idea. I have no recollection of that.

2 89 Q. Did you ever have the deposit book?

3 A. I have no recollection of it one way or another. It
4 may be that it was held in - I think there is something
5 on the correspondence file.

6 90 Q. How did you go about lodging money to this account?

7 A. I would have given them money through the manager, and
8 he would have transferred the money across, so that
9 when I went into lodge, instead of lodging in the
10 current account, it would have been lodged in this
11 deposit account. But 5,000 of it - for example, that
12 5,000, if I can put my hand on the record, from what I
13 can see, came in and was sent out again by the bank on
14 my behalf. I'll get the details of it for you.

15 91 Q. The second account, Mr. Burke, that you had with Bank
16 of Ireland, other than in this jurisdiction, was an
17 account with Foster Finance (Northern Ireland) Limited?

18 A. In 1971, and closed in 1972, yes.

19 92 Q. 5399, please.

20 A. Closed in 1972.

21 93 Q. This is the opening lodgement on this account in Foster
22 Finance?

23 A. Of ú5,000, yes.

24 94 Q. Where did that ú5,000 come from, Mr. Burke?

25 A. It would have been commissions - at that stage I had an
26 insurance business and an auctioneering business, and
27 it would have been money that was there. Rather than
28 having it, as I've already said to you, rather than
29 having it on current accounts, I would have been
30 getting some interest. Foster Finance is the Bank of

1 Ireland. It's all done through Whitehall there, as you
2 can see. And it would have been an interest gathering
3 exercise.

4 95 Q. Was this income you had earned?

5 A. It would have been monies that would have been earned
6 over the years, or commissions that came in at a
7 particular time, and rather than just, as I say; rather
8 than putting them into the current account, I would
9 have been getting some deposit - some interest on them.

10 96 Q. Is this sum of 5,000, therefore, made up of an
11 accumulation of a number of sums?

12 A. I don't recall. I didn't even recall the account at
13 this stage, it's so long ago. You are now talking
14 about 30 years ago. I have no record of it,
15 whatsoever. But I note from the information file which
16 I got from you last night, before coming in here today,
17 in relation to it, that it shows that the money was
18 withdrawn and sent back to my account in November '72.

19 97 Q. We'll deal with the withdrawal in a moment. We'll
20 concentrate on the lodgement for the moment.

21 A. I have no idea of the breakup of it.

22 98 Q. In 1972, 1973, your income from PJ Burke (Sales) was
23 ú3,000?

24 A. Yes.

25 99 Q. Document 5406, please. This is the year following this
26 lodgement.

27 .

28 You will see there, for the year 1972, '73, you are
29 returned as having ú3,000 from PJ Burke (Sales).

30 Benefit in kind, which is not cash or income, we can

1 disregard, Mr. Burke. And you have ú215 as TD salary?

2 A. That's right.

3 100 Q. Making a total income of ú3,215 prior to deduction of
4 tax?

5 A. Yes.

6 101 Q. And the tax, if we go down to the column "Tax Payable",
7 was ú838.25?

8 A. Yes.

9 102 Q. All right. And if we can go back now to the lodgement
10 at page 5397.

11 A. Yes.

12 103 Q. Of this ú5,000 --

13 A. Yes.

14 104 Q. From where exactly did this money come?

15 A. That would have been funds, as I said already,
16 commissions and from my businesses. And that's the
17 situation. They would have been dealt with as
18 directors' loans at the time. That was the way in the
19 '70s, that things were dealt with. And at the end of
20 the day, the accounts of PJ Burke (Sales) Limited were
21 finalised. These matters would have been treated as
22 directors' loans. I took out a personal loan to pay
23 off my tax at that particular time, when the company
24 was being wound up.

25 105 Q. Are you saying this sum of ú5,000 is a directors' loan
26 from PJ Burke (Sales)?

27 A. That's what it would have been under, that type of
28 treatment, yes.

29 106 Q. Are you saying it's from a directors' loan from your
30 insurance business?

- 1 A. Well, it was one in the same thing at that stage. I
2 was dealing with the insurance in through PJ Burke
3 (Sales) Limited as well.
- 4 107 Q. Are any of the amounts that went to Manchester
5 similarly to be treated as directors' loans?
- 6 A. Well, they would have been, as I say, between
7 directors' loans - they would have also been treated as
8 monies put in and commissions that were put in for a
9 sort of a reserve, building up a reserve account,
10 rather than putting it in and just leaving it sit there
11 on current accounts.
- 12 108 Q. So these were loans from the companies to you?
- 13 A. Well, they - the accounts were from PJ Burke (Sales)
14 Limited, but the titles of the accounts in the deposit
15 accounts were in my name. And as you see with the
16 14,000-odd and the Manchester account, it was brought
17 back to Ireland and put into my personal account in
18 December of '77.
- 19 109 Q. And this sum of ú5,000, together with the accrued
20 interest, was paid to Bank of Ireland in Whitehall?
- 21 A. That's right.
- 22 110 Q. On the 18th of August 1972. It's the page on screen?
- 23 A. Sorry?
- 24 111 Q. The page that's on screen.
- 25 A. 18th of August '71.
- 26 112 Q. 18th of August '72, Foster Finance Northern Ireland
27 Limited returned to the manager of Bank of Ireland,
28 Whitehall a cheque in the sum of ú89.87. That is on
29 screen. Where did that interest go?
- 30 A. Probably into my back pocket. In 1972, in August of

1 1972, ú89.89. I don't know. I would be highly
2 surprised if I lodged it anywhere in 1972 of ú89.

3 113 Q. And on the 29th of November, 1972, you received a
4 cheque in the sum of ú5,064.47. Page 5395.

5 A. Well, it went to the bank, yes.

6 114 Q. Was that lodged to the account of PJ Burke (Sales) or
7 was it lodged to the personal account of Mr. Raphael
8 Burke?

9 A. I have no recollection at this stage one way or another
10 because on the date involved there, the 29th of
11 November 1972, was my wedding day. So I had obviously
12 been talking to the bank days before getting money out,
13 which is obvious from other documentation that's there,
14 and I told him to return the money to Whitehall. But
15 it's sent back there, but I have no record as to where
16 it went, and I have no trace of any records.

17 .

18 I went to the bank in June of this year to - and again
19 was told by the bank that they had no records going
20 back into the 1971, '72 period, so - I can only help
21 you so far with my own recollection of things.

22 115 Q. Yes. This particular account in Foster Finance
23 Northern Ireland Limited, the funds were withdrawn on
24 one month's notice. We know on the 18th of August,
25 1972 they sent you a cheque for ú89.87. Page 5397,
26 please.

27 A. Yes.

28 116 Q. And they further confirm:

29 .

30 "We advise that the sum of ú5,000 remains to the credit

1 of the account, repayable on one month's written notice
2 of withdrawal."

3 .

4 Isn't that right?

5 A. That's right.

6 117 Q. And we know that in November of 1972, on the 29th of

7 November, 1972, Document 5395, please, a cheque for

8 ú5,064.47 was sent to Bank of Ireland in Whitehall?

9 A. That's right.

10 118 Q. So presumably, someone had given the written one

11 month's notice to withdraw the funds?

12 A. It seems that way, but I don't see any record of that

13 happening. But these would all be done through

14 Whitehall anyway, so I have no knowledge of the

15 internal operation of the Foster Finance Bank of

16 Ireland. They are one in the same thing.

17 119 Q. Page 5399. We see, Mr. Burke, that you, in fact, are

18 the depositor of the ú5,000?

19 A. Sorry, which one is that?

20 120 Q. It's on the screen beside you, Mr. Burke.

21 A. Sorry. What date is that?

22 121 Q. The 18th of August, 1971. And you are identified on

23 that as the depositor?

24 A. Yes.

25 122 Q. So presumably the only person who could give written

26 instructions about withdrawing that money was you?

27 A. Probably, yes.

28 123 Q. So it's likely, therefore, in order for the sum to have

29 been paid in November of 1972, that you gave written

30 instructions in connection with that?

1 A. Well, I have no argument with that, other than they
2 have gone back through records and have every other
3 letter that I seem to have signed going back to 1971
4 and '72. And there is no written instruction letter
5 there. So - I don't know. I can't answer you that.

6 .
7 MR. WALSH: Sorry, Ms. Dillon. Just a small point. We
8 have no copies of these. Late last night we received
9 one set of these papers. So I was wondering if they
10 could be scrolled from the beginning when they are son
11 screen.

12 .
13 124 Q. MS. DILLON: Of course.

14 .
15 Can you scroll back to the top of the document that's
16 on screen, so that the page number can be seen, please.

17 .
18 If we go down - what I wanted to ask you, Mr. Burke,
19 was is it likely that you wrote yourself directly to
20 Foster Finance (Northern Ireland) Limited?

21 A. No, I had never any dealings with Foster Finance. I
22 don't know Foster Finance. The only people I dealt
23 with, and the correspondence shows it right through, is
24 that everything is done through the manager of the Bank
25 of Ireland in Whitehall. That was - it was the same as
26 when I was dealing with Lombard & Ulster. With the
27 Ulster Bank everything was done through the Ulster Bank
28 in Dublin Airport, and these are the same type of an
29 operation. Obviously, Foster Finance - this account
30 was opened from August '71 until November '72, ú5,000,

1 and that's - as much as I know about it, I know at this
2 stage in time, as is here in four pages that's around
3 this file.

4 125 Q. This is your account, Mr. Burke.

5 A. Yes.

6 126 Q. Right. So when you talk about, "It was all done
7 through Whitehall", I presume what you are not
8 attempting to convey to the Sole Member, that the
9 manager was in any way dealing with your accounts other
10 than in accordance with your instructions?

11 A. Absolutely not. I am not making any suggestion of that
12 type at all. All I am highlighting is that all of my
13 dealings with the Bank of Ireland were done through
14 Whitehall, and through the bank in Whitehall.

15 127 Q. On your instructions?

16 A. Oh, everything would be done on instructions. I have
17 no recollection of it one way or the other, way back in
18 1971, 30 years ago, none.

19 128 Q. Can you assist at all as to why you would have elected
20 to place ú5,000 on deposit in Belfast?

21 A. It would have been done, obviously, on advice in
22 relation to the interest rate available. That seems to
23 me to be the only reason that I could consider. But I
24 have no other records of it, as I say, other than
25 what's here.

26 129 Q. You had, in addition, another account in Bank of
27 Ireland, isn't that right, Mr. Burke, not an off-shore
28 account?

29 A. Where?

30 130 Q. An account in Whitehall in Bank of Ireland?

1 A. I had a series of accounts in Whitehall. I had my - I
2 had four or five accounts. I had my own personal
3 accounts and the company accounts in Whitehall. I'll
4 give you the number of them --

5 131 Q. There is no need. I want to ask you about the joint
6 account that you had with your father.

7 A. This, again - that it's in my father's name, this would
8 have been - that I again had no recollection of my
9 father's name being on any account. The only reason I
10 can think about that, is that it was the insurance side
11 of the business. That would have been an old account,
12 because the business was originally his.

13 132 Q. The Tribunal wrote to your solicitors on the 17th of
14 July, 2000. And specifically one of the matters that
15 was raised with your solicitors in that correspondence
16 was - sorry, I'll give you the query.

17 .
18 The Tribunal wrote on the 13th of July, 2000. And one
19 of the specific queries that the Tribunal raised with
20 you through your solicitors was:

21 .
22 "In addition, the Tribunal would be obliged if your
23 client would confirm whether he has now, or at any time
24 operated, or had any interest in a bank account in the
25 sole name of Patrick or Paddy or Pat Burke? The
26 Tribunal would be further obliged if your clients
27 would confirm whether they either solely or jointly
28 have ever maintained an account with Patrick/Paddy/Pat
29 Burke."

30 .

1 Your solicitors replied on your behalf, Mr. Burke, by
2 letter dated the 19th of July, 2000.

3 .

4 "In relation to your inquiry about accounts in the name
5 of Patrick or Paddy or Pat Burke, our client confirms
6 the only accounts worldwide which he has held have been
7 discovered to you, save the account of Bruton Street,
8 which we referred to above."

9 .

10 A. Yes.

11 133 Q. Is it the position that you did maintain a joint
12 account with Patrick Burke at Bank of Ireland in
13 Whitehall?

14 A. It seems that way, looking at this documentation, but I
15 had no recollection of it until this documentation
16 came. And it is - just one moment - it is a small
17 deposit account that was - there was quite a bit of
18 deposit money in it at one stage, apparently. That's
19 where the money for, 15,000 in relation to the house
20 came out of it. But it seems to have been - it would
21 have been linked to the business, to the insurance
22 business, because my father's name would have been
23 involved in that.

24 134 Q. The document is at page 5373. It's a letter from
25 Mr. Delany, addressed to "whom it may concern", dated
26 the 20th of August, 1974?

27 A. Yes.

28 135 Q. Was this letter written by Mr. Delany in the course of
29 the Garda inquiries, Mr. Burke?

30 A. If you just give me a second, I'll get it up here now.

1 Sorry, just one second.

2 136 Q. It's on screen, Mr. Burke.

3 A. I would prefer to have the hard copy in front of me.

4 If you look at the - that's the 20th of August, yes.

5 If you look at the 12th of August --

6 137 Q. We'll just look at the letter that's on screen at the

7 moment, Mr. Burke, and we can look at any other

8 correspondence you want to look at in the fullness of

9 time.

10 A. You asked me a question --

11 138 Q. I am asking you a question about the document that's on

12 screen, which is a letter dated the 20th, not the 12th

13 of August, 1974?

14 A. That's right.

15 139 Q. It's a letter addressed "to whom it may concern". If

16 you scroll down to the bottom of the page, it's signed

17 by Mr. Delany?

18 A. Yes.

19 140 Q. The question was: Was this a letter written by

20 Mr. Delany in the course of the Garda inquiries in

21 1974?

22 A. It was a letter written by Mr. Delany in the course of

23 the Garda inquiries in 1974, following on an authority

24 of which I gave to Mr. Delany, Bank of Ireland,

25 Whitehall, Dublin 9, on the 12th of August.

26 .

27 "Dear Mr. Delany, I give my authority to provide any

28 information required to Mr. Casey.

29 .

30 Yours sincerely, signed Ray Burke."

1 .

2 This was at the time - there was a Garda investigation
3 in 1974.

4 141 Q. Into the article in the Sunday Independent by
5 Mr. McAnthony which referred to "Ray Burke - ú15,000"
6 --

7 A. Yes.

8 142 Q. The Pagebar issue?

9 A. Which was shown, after a full and detailed Garda
10 investigation, that there was no case to answer by me.

11 143 Q. If you look at the letter that's on screen, Mr. Burke.

12 A. Yes, I have it.

13 144 Q. And the last paragraph in that letter --

14 A. Yes.

15 145 Q. -- indicates the existence of a joint account. Now,
16 Mr. Delany says that the account was opened on the 5th
17 of April, 1971?

18 A. Yes.

19 146 Q. He says that: "On the 12th of October, 1973, there was
20 ú17,559.50, from which you withdrew ú15,000 and lodged
21 to your bridging loan account."

22 A. That's right.

23 147 Q. Yes says: "There was an accumulation of lodgements
24 from the date of opening, 5th of April, '71, to the
25 date of this transaction", which is the 12th of
26 October, '73.

27 A. That's right.

28 148 Q. Where did the money come from?

29 A. Well, obviously part of it - I'll give you a background
30 to some of it now.

1 .

2 In 1973 I was paid from McMahon Galvin Limited.

3 149 Q. What date in 1973, Mr. Burke?

4 A. March 1973. I was paid - I'll just read it:

5 "Further to our conversation, I wish to confirm" --

6 150 Q. Have you furnished this letter to the Tribunal?

7 A. I am not sure.

8 151 Q. The Sole Member has ruled - if it has gone to the

9 Tribunal, there is no difficulty with Mr. Burke

10 referring to it.

11 .

12 You made a ruling, Sir, at the very early stages, that

13 documents that had not been discovered would not be

14 opened or relied upon. I simply want to ascertain if

15 we have the document --

16 .

17 CHAIRMAN: Just a moment. Have we the document?

18 That's the first thing.

19 .

20 MR. WALSH: I just wanted to find out one thing first,

21 Sir. That is, could Mr. Burke be allowed to answer the

22 question. He is only out one sentence and Ms. Dillon

23 cuts across him. We'll find out in due course of time,

24 if he could only answer the question.

25 .

26 MS. DILLON: The question that I asked Mr. Burke, and

27 the series of questions and answers are:

28 .

29 "Question: Where did the money come from?"

30 Answer: Well, obviously part of it - I'll give you a

1 background to some of it now. In 1973 I was paid from
2 McMahon Galvin Limited.

3 Question: What date in 1973, Mr. Burke?

4 Answer: March 1973. I was paid - I will just read it
5 "Further to our conversation, I wish to" - I think it
6 should be "confirm".

7 .

8 Then the question is: "Have you furnished this letter
9 to the Tribunal?"

10 Answer: I am not sure."

11 .

12 I am perfectly entitled to interrupt the witness if he
13 is about to introduce something in evidence that will
14 be introduced contrary to a ruling made by you, Sir.
15 So I think we should establish the provenance of the
16 document, and see has Mr. Burke furnished it to the
17 Tribunal. And if he has, then he can open it and it
18 can be dealt with, and we can put it up on the screen.

19 A. Can we go back to the original question. I sold part
20 of my insurance company --

21 .

22 152 Q. MS. DILLON: Sorry, Mr. Burke, could you take the
23 document and give a copy of the document you are
24 reading from to the Registrar of the Tribunal, please.

25 .

26 If you'd make a copy of it, and we'll have it checked
27 to see whether we've received it.

28 A. There is a second one here.

29 153 Q. Thank you, Mr. Burke. We'll resume the evidence when
30 the Registrar returns.

1 .
2 CHAIRMAN: As a matter of fact, we might break at this
3 point in time, because there is going to be a short
4 break of ten minutes only. And likewise, the luncheon
5 interval will be shorter, down to an hour, so that we
6 pick up the time we lost this morning.

7 .
8 So it's now ten to twelve. I'll sit again at twelve.

9 .
10 THE TRIBUNAL THEN ADJOURNED FOR A SHORT RECESS AND
11 RESUMED AGAIN AS FOLLOWS:

12 .
13 154 Q. MS. DILLON: Document 5373, please.

14 .
15 If we could scroll back up to the top of the document.
16 .
17 Can you explain to the Sole Member the circumstances in
18 which this letter came to be written, and to whom it
19 was addressed?

20 A. It was addressed to Mr. Casey, who was the Detective
21 Inspector involved in the inquiry which had been
22 established into allegations that had been made in a
23 newspaper article, established by the State, and
24 Mr. Casey was the Inspector dealing with it. And he
25 requested information in relation to my home, and the
26 funding of my home, and I gave a letter to the Bank of
27 Ireland asking them - to give my authority to provide
28 any information required to Mr. Casey. And it was on
29 the basis of that letter that - the basis of that
30 authority that that letter was written.

1 155 Q. If we move to the second last paragraph of the letter,
2 beginning with the words "The balance of the joint
3 deposit account which stands in the name of Raphael and
4 Patrick Burke on the 12th October, 1973, was
5 ú17,559.50, from which sum Mr. Burke withdrew ú15,000."
6 .

7 I presume the "Mr. Burke" referred to there is you?

8 A. Obviously, yes.

9 156 Q. "And lodged to his bridging loan account."

10 A. That's right.

11 157 Q. "This deposit balance was made up of an accumulation of
12 lodgments from the date of the opening of that same
13 account, and, in fact, which was opened on the 5th of
14 April, 1971."

15 A. That's right.

16 158 Q. Did you have a bridging loan with Bank of Ireland,
17 Whitehall?

18 A. There was a bridging loan approval given to me in
19 Whitehall. If I can get the details out here?

20 159 Q. I didn't ask you whether you got bridging loan
21 approval, Mr. Burke. I asked you whether you had a
22 bridging loan at Bank of Ireland in Whitehall. Did you
23 draw down ú15,000 of borrowed funds from Bank of
24 Ireland in Whitehall?

25 A. I am trying to answer the question to you. If you bear
26 with me a moment, I'll just get up the details of it.

27 160 Q. While Mr. Burke is going through the documents.

28 .

29 In relation to the letter that Mr. Burke was reading
30 from, which is a letter dated the 29th of August, 2001,

1 it appears, on first examination, that we do not have
2 this document, but I cannot definitively state that to
3 you, Sir. With your permission, I would like to leave
4 that aspect over until after lunch, in which case we
5 will be in a position to be more definitive as to
6 whether we have it or not.

7 .

8 MR. WALSH: Just on that topic --

9 .

10 MS. DILLON: It may be that we do.

11 .

12 MR. WALSH: -- we've checked, as far as we can, and we
13 believe that we did not send it on. So it looks as if
14 the Tribunal didn't get the letter. But the
15 information contained in it is referred to by Mr. Burke
16 in a statement he made for you, at your direction, in
17 May of 2001. That figure is given.

18 .

19 CHAIRMAN: Perhaps you'll look at that and clarify the
20 situation before we discuss this matter any further. I
21 don't want to in any way get into a situation where
22 there is a discussion or a debate as to whether
23 anything is happening. Just check the situation and
24 see if it can be resolved.

25 A. Mr. Chairman, if I could help somewhat on it. If I can
26 just quote to you, from the statement --

27 .

28 CHAIRMAN: No.

29 .

30 MS. DILLON: The document --

1

CHAIRMAN: We'll take a decision on it then at lunch
time --

4

MS. DILLON: The same rules apply --

6 A. Sorry, Mr. Chairman, I am trying to help.

7

CHAIRMAN: I appreciate that. Thank you very much.
The discussion is now at an end.

10

11 161 Q. MS. DILLON: If we can go back to the document that's
12 on screen, Mr. Burke?

13 A. Yeah, sure.

14 162 Q. Is it the position that you borrowed ú15,000 from Bank
15 of Ireland in Whitehall?

16 A. The circumstances of it are as follows --

17

CHAIRMAN: Mr. Burke, could I ask you to do one thing
for us. That question is capable of being answered
"yes" or "no". And of course you are perfectly
entitled to deal with the manner in which the answer,
"yes" or "no" arises. But until I know, and the
questioner knows whether you are positive or negative,
the - it just is walking around in a circle. So if you
could do that for us, it would speed up the Tribunal's
work.

27 A. It appears that I had the use of a bridging loan for a
28 few days, from 24th of September, '73, until the 12th
29 of October, '73. And I am confirmed in that by the
30 reading of the letter which is on the screen. And if I

1 may, Mr. Chairman, it says: "To whom it may concern",
2 dated the 20th of August, and it's in relation to
3 myself:

4 .
5 "The above gentleman was granted bridging loan
6 accommodation at this office on the 24th September,
7 '73, to the extent of ú15,000, and it was secured by a
8 Letter of Undertaking from his solicitors, Oliver J
9 Conlon & Company, over a mortgage granted by the
10 Property Loan and Investment Company Limited --"

11 .
12 163 Q. MS. DILLON: If you can stop it there, Mr. Burke,
13 please. Thank you.

14 .
15 Is it your recollection that you had ú15,000 in
16 borrowed funds that you drew down on the 24th of
17 September, 1973, from Bank of Ireland in Whitehall?

18 A. It wasn't my recollection of it, actually drawing it
19 down. I have no recollection of having to use the
20 bridging finance at the time. And I said that to you
21 in the statement that I made at the time. Because
22 there is just a time lag of a few days from the 24th of
23 September to the 12th of October - well, more than a
24 few days, it's a couple of weeks, from the 24th of
25 September to the 12th of October.

26 164 Q. Is it your reading of the letter that's on the screen,
27 that this letter means that on the 24th of September,
28 1973, you drew down ú15,000 on a bridging facility from
29 Bank of Ireland in Whitehall, which you subsequently
30 repaid on the 12th of October, 1973, by a withdrawal

1 from the joint deposit account?

2 A. That seems to be what has happened. But I am not an
3 accountant and I - but it seems to be what has happened
4 here.

5 .

6 If I go on to the second paragraph --

7 165 Q. If you just stay with this, Mr. Burke, please. Thank
8 you.

9 .

10 If we --

11 A. What I was going to say to you is - to answer your
12 question it is necessary for me to - to answer your
13 question fully, and to give it the proper answer that
14 you are entitled to, Mr. Chairman, if you go to the
15 second paragraph, it says: Interest --"

16 166 Q. Mr. Burke, can we stay with the first paragraph,
17 because I haven't finished my questions on the first
18 paragraph yet, thank you.

19 .

20 Is it your position --

21 .

22 MR. WALSH: Sorry, Sir --

23 .

24 CHAIRMAN: Please.

25 .

26 167 Q. MS. DILLON: Is it your position --

27 .

28 CHAIRMAN: I'll rule whether he has to answer it or
29 not. Now, I must know what the question is going to
30 be, and I --

1 .
2 MR. WALSH: I am talking about the last question, Sir.
3 Mr. Burke indicated he wanted to finish the last
4 question.

5 .
6 CHAIRMAN: He wants to go on to the second paragraph.
7 Ms. Dillon says, "Before you go to that paragraph, I
8 want to complete the query on the first paragraph."

9 .
10 Now, by all means, if she wants to do that, Mr. Burke
11 will then be able to go to the second paragraph and
12 we'll know. And if we start interrupting each other in
13 every way, we get no progress. I am trying to keep the
14 thing in sequence. That's all I am trying to do,
15 nothing else.

16 .
17 MR. WALSH: I appreciate that, Sir, but Mr. Burke has
18 indicated that he wished to complete his answer in
19 relation to the first paragraph. I think he should be
20 afforded that courtesy.

21 .
22 CHAIRMAN: He will be afforded that courtesy.

23 .
24 168 Q. MS. DILLON: Absolutely. And we are going to go
25 through each paragraph of the letter with Mr. Burke.
26 But I have a question that I would like to put to
27 Mr. Burke arising out of the first paragraph in the
28 letter. And it's merely to get things in date
29 sequence.

30 .

1 Is it the position, Mr. Burke, that when you prepared
2 your statement in relation to the purchase and paying
3 for your house in Oakpark, that you were of the view at
4 that period in time, before you had seen this document,
5 that you had not drawn down any bridging facilities or
6 loan facilities from Bank of Ireland in Whitehall?

7 A. What I said to you in the statement is, I do not recall
8 having to avail of bridging finances. The total
9 transaction relating to the loan was done through the
10 Bank of Ireland, Whitehall, is what I said to you.
11 That was my position, and that was my recollection.

12 .
13 This documentation was subsequently secured from the
14 bank, despite the fact that I tried not to - I tried to
15 get the stuff, was unsuccessful, but it was eventually
16 sent to the Tribunal in June sometime, and that
17 documentation is there. But I answered you honestly
18 and correctly at the time.

19 169 Q. And is it your position, that your reading of this
20 letter now, that your understanding of this letter is
21 that you did, in fact, on the 24th of September, 1973,
22 draw down a bridging facility, a loan of ú15,000 from
23 Bank of Ireland, though you do not, in fact, have any
24 such recollection? You don't actually remember doing
25 that, but that's what you understand the letter to say?

26 A. When you read the letter in full, that's what it
27 appears to say, yes.

28 170 Q. So that in so far as the ú15,000 is concerned, it's now
29 your understanding that there was a bridging facility
30 in Bank of Ireland in Whitehall; you drew down the

1 bridging facility which was in place for a number of
2 weeks, and you repaid the bridging facility on the 12th
3 of October, 1973, by a transfer from a joint account in
4 your name and that of your father?

5 A. That seems to be what has happened, yes.

6 171 Q. Now, paragraph 2 of the letter you wish to deal with,
7 Mr. Burke, it says that: "Interest on this bridging
8 loan at that time was chargeable at 13 percent, and to
9 alleviate this burden Mr. Burke..." - I presume that
10 again is you?

11 A. It would be, yes.

12 172 Q. "...Transferred the sum of ú15,000 on the 12th October,
13 1973, from his personal joint deposit account in this
14 office, which has been accruing interest at the rate of
15 9 percent, thereby saving himself 4 percent interest in
16 the interim."

17 A. That's correct.

18 173 Q. "We wish to clarify that this bridging loan is still
19 available to Mr. Burke, should he decide to avail of
20 same, pending the issuance of the loan cheque from the
21 Property Loan and Investment Company Limited, which is
22 expected to come to hand in the very near future."

23 A. That's right.

24 174 Q. "The balance of the joint deposit account which stands
25 in the name of Raphael and Patrick Burke, on the 12th
26 October, 1973, was ú17,559.50, from which sum Mr. Burke
27 withdrew ú15,000 and lodged to his bridging loan
28 account. This deposit balance was made up of an
29 accumulation of lodgements from the date of the opening
30 of that same account, and, in fact, which was opened on

1 the 5th of April, 1971.

2 .

3 I trust that this is the information that is required.

4 .

5 Yours faithfully, JK Delany, Assistant Manager."

6 .

7 And that's the Mr. Delany with whom you normally dealt

8 in Bank of Ireland --

9 A. Yes, I dealt with Mr. McEvoy who was the manager, and

10 Mr. Delany who was the assistant manager, yes.

11 175 Q. Paragraph 3 of that letter suggests, Mr. Burke, or I

12 would say is open to the interpretation that you never

13 drew down the bridging loan?

14 A. Well, what - I think you can't look at one paragraph in

15 isolation, is what I was trying to say to you earlier

16 on, when we got into some conflict. If I can answer

17 you this way, through you, Mr. Chairman: The bridging

18 loan accommodation was provided, secured against a

19 Letter of Undertaking. It was being charged to me at

20 13 percent, and rather than paying 13 percent, I took

21 15,000 out of my own deposit account and paid it in.

22 .

23 The money that - the paragraph 3 says, if I want to go

24 back and take my own money, and if I want to get at the

25 - a bridging finance available, the 15,000; if I want

26 to get ú15,000 for any reason, I can borrow it against

27 the house, having paid off the 15,000 already. That's

28 what that seems to say to me.

29 176 Q. Do you remember any of that, Mr. Burke?

30 A. I remember the 15,000. I remember the funding, but the

1 details of it, I am hazy about. I've covered it with
2 you in the statement, as far as I can. As to whether
3 the balance of the 15,000 was drawn down by the bank
4 internally from a subsidiary or drawn through
5 overdraft, I wasn't aware. I couldn't recollect all of
6 the details of it. And I was delighted when I got this
7 letter, because it clarified the situation in relation
8 to the fact that I had paid 15,000 for my house.

9 177 Q. So --

10 A. Beside the seven-and-half thousand which would have
11 been worked off in fees.

12 178 Q. This is the seven-and-a-half thousand pounds for the
13 purchase price of the site on which your house was
14 built?

15 A. It would have been all done in the one block. It
16 wasn't a question of the seven-and-a-half - it was
17 22-and-a-half altogether is the --

18 179 Q. If you are correct in your recollection, then there
19 should be some record in Bank of Ireland in Whitehall
20 of that bridging loan?

21 A. He refers to the bridging loan account here, but in the
22 documentation that I've got from the bank, and that you
23 got from the bank, there is no reference to it. It's
24 also - if I may, Mr. Chairman, there is a second letter
25 that comes with this. It's a short letter. It merely
26 says - also to Mr. Casey. It would have been given on
27 the, two days after the first one, just clarifying that
28 it was from a joint personal account, the 15, and not
29 from any clients' funds, that the 15 - Mr. Casey
30 obviously went back to the bank and asked for that to

1 be clarified. I don't know the circumstances of it,

2 but that seems to have been what happened.

3 180 Q. If you had drawn down ú15,000 on the 24th of September,

4 1973, and were repaying the bridging loan on the 12th

5 of October, 1973, there would have been interest on the

6 ú15,000 that you had borrowed?

7 A. I beg your pardon? Sorry?

8 181 Q. If you had borrowed ú15,000 on the 24th of September,

9 1973, and you were repaying ú15,000 on the 12th of

10 October, 1973, there would have been interest?

11 A. I have no idea.

12 182 Q. Well, do banks normally make --

13 A. They probably - there would have been probably an

14 interest thing on it. All I can go on is what the bank

15 told the Guards, which is, and I am not suggesting -

16 and I know you are not suggesting that the Guards were

17 misled by the bank. It says here that I got bridging

18 finance approval on the 24th of September for 15,000.

19 Rather than using it that way, it could have been used

20 for a couple of weeks that way, and that I was being

21 charged 13 percent on that, rather than the 9 percent

22 which I was getting for my own money in the bank. I

23 was borrowing my own money. And rather than using

24 their bridging money, for the house, I used my own

25 ú15,000. That's what it says here, saving myself four

26 percent interest.

27 .

28 CHAIRMAN: Mr. Burke, can I intervene here? Very

29 simply, if you were paying for your house with your

30 bridging finance, you would have had to draw a cheque

1 on your bridging loan, or a draft, to pay to your
2 builders. That would be the normal system that would
3 happen.

4 .

5 Now, somewhere in the archives of the bank there should
6 be either a drawdown on the 28th - I beg your pardon,
7 on the 24th, and likewise there should be a credit on
8 the 12th of October of ú15,000, with a debit
9 outstanding of 13 percent on ú15,000 for approximately
10 four weeks.

11 .

12 Now, banks are people who are very, very accurate about
13 their bookkeeping, because the books have got to
14 balance, broadly speaking.

15 .

16 Now, have I got the sequence of events correct? Do you
17 ever recall being forgiven a sum of interest by the
18 bank? If you don't recall that, then, presumably, the
19 record is in the bank.

20 A. Well, I assume --

21 .

22 CHAIRMAN: Or alternatively, there is an alternative
23 proposition, and it is this: That you didn't pay for
24 the house on the 24th of September, that you never
25 actually drew down the loan, and it was after you had
26 credited your account with 15,000 that you paid for
27 your house, in which case the other doesn't arise? But
28 that's a matter of detail, as I see it.

29 .

30 And I wouldn't see any difficulty about it.

1 A. It seems a detail to me too, Mr. Chairman. But I don't
2 have the detail, and I don't have the documentation.
3 If the bank have it, good luck, and I wish them well.
4 But I haven't got it, Mr. Chairman, going back that
5 far.

6 .

7 CHAIRMAN: All right.

8 .

9 183 Q. MS. DILLON: The account, Mr. Burke, the deposit
10 account that's here that's being referred to is a joint
11 account - was a joint deposit account opened in April
12 '71. And between April of '71 and October of 1983, if
13 this document is correct, ú17,500 - 17,559.50 was
14 lodged to the credit of the account?

15 A. Mm-hmm.

16 184 Q. Between August 1971 and November '72, when you
17 repatriated the money from Belfast, you had ú5,000 on
18 deposit with them?

19 A. That's right, yes.

20 185 Q. And in your Manchester account, between December '74
21 and December '77, you had ú14,585 in total on deposit,
22 when it was repatriated, isn't that right?

23 A. Sorry. Sorry, just bear with me a moment. There was
24 ú14,000 --

25 186 Q. 5377?

26 A. -- lodged all through different procedures; one, 1,350
27 in '74; 2,000 in '75; 13,000 in '75; 3,000 in '76 and
28 5,000 in '76, way after the '72 period, yes.

29 187 Q. I mean, just stick to the facts of the situation,
30 Mr. Burke.

1 .
2 Between these three accounts, on the dates, according
3 to the documents that we've seen this morning - we'll
4 go through them again.

5 .
6 In the joint deposit account, between April '71 and
7 October '73, there was slightly in excess of ú17,500
8 lodged, according to the bank's letter?

9 A. That's right.

10 188 Q. Is that right?

11 A. That's right.

12 189 Q. In so far as the Manchester lodgement account, which is
13 on screen, is concerned, between the 6th of December,
14 '74, and the 28th of December, 1977, you lodged ú14,584
15 to that account, including interest?

16 A. That's right.

17 190 Q. Yes. In so far as the Foster Finance Belfast account
18 was concerned, which was in operation between August
19 1971 and November 1972, you had a sum of ú5,000 on
20 deposit?

21 A. That's right, yes.

22 191 Q. The total of those amounts, in terms of monies on
23 deposit over that period of time, amount to
24 approximately ú37,000?

25 A. Yes.

26 192 Q. And that was between April 1971 and December '77?

27 A. Yes.

28 193 Q. Your income from '72 to '73 is returned at ú3,615.

29 Document 5406, please.

30 .

1 These are your returns of income, Mr. Burke, for this
2 period of time. We don't have '71/'72, but commencing
3 in '72/'73. Eliminating benefit in kind, you will see
4 that your total income in '72/'73 was ú3,214?

5 A. Yes.

6 194 Q. In '73/'74 it's 6,587, but one must deduct 400 from
7 that. In '74/'75 it's 6,312. And in '75/'76 it's
8 9,511. Again, one must deduct the benefit in kind.

9 A. Mm-hmm.

10 195 Q. How did you manage to accumulate ú37,000 during that
11 period of time?

12 A. Well, I think if you look at the situation, take the
13 17,000 account there, the - I got eight-and-a-half
14 thousand, which I told you about in the statement
15 earlier on, for the sale of the insurance side of my
16 business. I think you can assume, at least I am
17 assuming that 5,000 of this would have been the 5,000
18 from that 17-and-a-half. It's not unreasonable to
19 assume that the 5,000, or the bulk of that 5,000 would
20 have gone into the deposit account when it was returned
21 from Belfast down.

22 196 Q. What ú5,000 are you talking about?

23 A. The ú5,000 that was returned in November of '72.

24 197 Q. Where are you saying that went to, Mr. Burke?

25 A. I am saying that it's probable that it went into the
26 deposit account, but I have no --

27 198 Q. What deposit account?

28 A. The joint account of my father and myself. Not deposit
29 account, a joint account of my father and myself that
30 made up the 17,000.

1 199 Q. Are you assuming that it went in there?

2 A. I am assuming. You have no records, and I have no
3 records of this at all. The other would have been
4 funds that were earned down through the years by my
5 company for interest - or for commissions on house
6 sales, and for property sales. I was running an
7 insurance business up until '72, as well as an
8 auctioneering business. And I was also running the
9 auctioneering business from then on. And it was quite
10 successful.

11 .
12 As far as the - now, why it doesn't appear in my
13 accounts as "salaries", in those days most of those
14 things would have been done as directors' loans, and
15 all of those matters were regularised, if I can use
16 that word. The accounts were finalised and - at the
17 time that I wound up the business.

18 200 Q. When did you wind up the business?

19 A. Tax-wise, I stopped trading about 1982, and tax-wise we
20 made a settlement with anybody that was owed money. In
21 1985 it was really revenue that I made - the
22 settlements with them, finalised all my accounts with
23 them, and took a loan out myself to sort out all of the
24 funds that were - could possibly have been owed and
25 that amounted to about - the details of it are here.
26 It's ú20,000.

27 201 Q. In?

28 202 Q. When in 1982 did PJ Burke (Sales) stop trading?

29 A. It would have stopped trading about the middle of 1982.

30 203 Q. When in 1982, approximately?

1 A. I don't have a specific date. It would have been
2 sometime in 1982, beginning of '83, probably the middle
3 of '82.

4 204 Q. And was that a different company to your insurance
5 business?

6 A. The insurance business had been started by my father in
7 the 1960s period, maybe '59, '60 period, and had a
8 small insurance brokerage, quite successful at times,
9 but pressures on me of political, and other pressures,
10 I didn't have the time to keep going. That's why I
11 sold it to McMahon and Galvin.

12 205 Q. The question you were asked: Was that a different
13 company to your insurance brokerage? What is the
14 answer?

15 A. No, I've answered you that it was a different company.
16 I didn't establish the auctioneering business, estate
17 agency business until '68, and then I brought in the
18 insurance side into the auctioneering side as well.
19 And eventually sold the insurance side of it.

20 206 Q. Were they two separate companies, or were they one
21 company?

22 A. It was - two separate companies originally. It would
23 have been my father trading as PJ Burke & Company,
24 which was an unlimited company, and it was dealing with
25 just the insurance side of things right through the
26 early '60s and on from there. And then later on I
27 would have taken the insurance side into
28 P J Burke (Sales) Limited. So it went on from there.

29 207 Q. In so far as PJ Burke (Sales) Limited was concerned,
30 was that a company that was primarily concerned with

1 auctioneering?

2 A. It was, yes. The estate agency work and auctioneering.

3 208 Q. The records of PJ Burke (Sales), the bank records or

4 the bank statements, during the '70s, and for some part

5 of the '80s, were held at Bank of Ireland in Whitehall?

6 A. They were all held there, yes.

7 209 Q. You've seen these bank statements?

8 A. I have, yes.

9 210 Q. And you will have noted, Mr. Burke, that from April of

10 1975 to August of 1982, there are standing orders

11 coming into PJ Burke (Sales) in the sum of ú1,000 a

12 month, approximately?

13 A. That's right. From Kilnamanagh.

14 211 Q. They are from Kilnamanagh?

15 A. That's right, yes.

16 212 Q. You will have noted that they are identified as

17 "Kilnamanagh" from the 30th of March, '77, to the 29th

18 of March, '79, but other than that particular period,

19 they come in solely as "credit transfer" or

20 "lodgements"?

21 A. Well, I don't know the significance of that, but, I

22 mean, it's the same funds that are transferred in all

23 the time, yes.

24 213 Q. All of those funds, from the period '75 to '82, came

25 from Kilnamanagh Estates?

26 A. They did, yes.

27 214 Q. What arrangement did your company have about payment

28 from Kilnamanagh Estates?

29 A. Well, I was operating in house sales for them in

30 various areas, down through the years, and rather than

1 having a situation - to insure a cash flow, rather than
2 having a situation of just being paid in lump sums
3 every now and then, and trying to keep records, et
4 cetera, of that, it was decided that I would go on -
5 and to keep a cash flow for secretaries and everything
6 else, that I would be able to have a cash flow, I would
7 organise that I would be paid on a monthly basis,
8 rather than in lump sums at various areas.

9 .

10 It was an easier way for me to ensure getting my fees.

11 215 Q. So the position was, then, that between April of 1975
12 and August of 1982, the accounts of PJ Burke (Sales)
13 were in receipt of a sum of ú1,000 a month from
14 Kilnamanagh Estates?

15 A. From April '75 up until March of '82, I believe it was,
16 yes.

17 216 Q. I think if you --

18 A. Maybe it's March --

19 217 Q. August of '82, I think is the last lodgement --

20 A. Wait until I find it, in a second --

21 218 Q. -- to that account?

22 A. The one I have is March, but I am not - maybe there is

23 --

24 219 Q. If we could have page 5369, please.

25 A. I am not arguing with you. It could be.

26 220 Q. We'll establish it, Mr. Burke, rather than speculate.

27 .

28 You will see on screen, that's an extract from the bank
29 account of PJ Burke (Sales) Limited, the number one
30 account, which was the current account --

1 A. Yes.

2 221 Q. -- at Bank of Ireland in Whitehall. You will see there

3 --

4 A. August, yes.

5 222 Q. A credit transfer in April of '82, and also a credit

6 transfer on the 31st of August in the sum of ú2,000?

7 A. I accept that.

8 223 Q. And sometime shortly thereafter the account became

9 inoperative, the account had - was no longer trading?

10 A. That's right. I just didn't continue with the business

11 at that stage.

12 224 Q. Were you in receipt of any of those sums from PJ Burke

13 (Sales) to you? Were any of those funds paid directly

14 to you?

15 A. Occasionally the funds would have been transferred in

16 to my current account, yes.

17 225 Q. Can you estimate approximately how much or what

18 proportion?

19 A. I would say most of it.

20 226 Q. Was transferred to your personal account?

21 A. Over the years at different times. And it would have

22 been used for the running of the business as well.

23 That, and other income that I would have got over the

24 years from other business that I did with other

25 clients, and with other companies that I would have

26 done business with, other commissions. I was the

27 biggest shareholder - well, I was the sole - for all

28 intents and purposes, I was the shareholder of the

29 company.

30 227 Q. Between '75 and 1982, it would appear that

1 approximately €85,000 was paid by Kilnarnagh Estates
2 in this fashion to PJ Burke (Sales) Limited?

3 A. For my services - for the services of the company and
4 working on their behalf, yes.

5 228 Q. And with whom did you make this arrangement about
6 payment?

7 A. It would have been made probably with the - with Mr.
8 Brennan or Mr. McGowan. It was probably Mr. Brennan.

9 229 Q. Is that - you have a recollection of making this
10 arrangement with Mr. Tom Brennan, that your company
11 would be paid €1,000 per month for as long as you were
12 doing business together?

13 A. Yes. Rather than - it's not a question of just 1,000 a
14 month. It's a question of this against gross fees. It
15 was a question of paying the fees on a regular basis,
16 rather than the other way around. That, to my
17 recollection, would have been done with Tom Brennan,
18 but that's - we are going back now to 1975, and --

19 230 Q. To 1982 --

20 A. But we are talking about when it started. My
21 recollection would be that it would have been with Tom,
22 yes.

23 231 Q. And did you have a balancing exercise or a balancing
24 statement that was provided to Kilnarnagh Estates
25 every year?

26 A. No, there wouldn't have been - it wouldn't have been
27 like that. But there was a very rough number of houses
28 in Kilnarnagh Estates. In Greenhills Road, for
29 example, there would have been about 16, 1,700 houses
30 which were built out there. I would have been involved

1 in Grange Road, various other sites around.

2 .

3 As I say, rather than doing it in lump sums, et cetera,

4 this was the way it was done.

5 232 Q. These are all flat figure sums?

6 A. Oh, yes. That's why it was done that way, so that

7 there would be a cash flow situation, rather than - for

8 me to keep the company going in a cash flow and be paid

9 on this regular basis.

10 233 Q. And was there ever a situation where there was a

11 balancing statement done by PJ Burke (Sales) Limited to

12 Kilnamanagh Estates? In other words, working out how

13 much they paid in advance and how many houses had been

14 sold, matters such as that sort?

15 A. There probably was, but I haven't got records of it

16 going back that far now.

17 234 Q. Was there any liability to that during that period --

18 A. I don't think that applied in those days. I am not

19 sure. I haven't a clue whether there was or there

20 wasn't. I don't think that applied to the estate agent

21 fees in those days. It may have. I am not sure.

22 235 Q. In any event, these are all round figure payments?

23 A. No argument with that whatsoever.

24 236 Q. And they were coming in at the rate of one, and

25 occasionally ú2,000 a month by Kilnamanagh to PJ Burke

26 (Sales) Limited, number one account --

27 A. It was 1,000 a month, I think. And the last one that

28 you have up there, there seems to have been some

29 settlement figure decided upon, and a final figure. So

30 that's probably where the settlement figure came in, in

1 1982, as to finalising it.

2 .

3 Up until then, it would have been just coming in at

4 1,000 a month to the company.

5 237 Q. And you were being paid, or is it the position that

6 funds were then being transferred out of PJ Burke

7 (Sales) Limited to your personal account?

8 A. Whenever I went into an overdraft situation, I would

9 arrange for money to be transferred from the company

10 into my own personal - into my own current account, or

11 that of my wife.

12 238 Q. So these funds were going directly to you?

13 A. No. These funds were going to the company, and I was

14 the owner of the company. And I have worked hard for

15 my fees over the years.

16 239 Q. When did you cease taking - would you have classed

17 this, then, as income from the company, these transfers

18 over?

19 A. Sorry?

20 240 Q. Would you have classed this as income from the company?

21 Was this your salary from the company, and how it was

22 paid?

23 A. Well, it was all put in - it would have been my salary,

24 but it would have been done mainly on borrowings. It

25 would have been described as directors' borrowings at

26 the time.

27 241 Q. Where was it described as directors' borrowings?

28 A. It would have been handled that way. That's why I

29 settled up at the end of the day with the Revenue.

30 242 Q. That was in 1985 or '86?

1 A. In '85.

2 243 Q. But where, at the time that all of this was going on,

3 where was this, in fact, set up?

4 A. Sorry? It would have been done with my accountant at

5 the time.

6 244 Q. And was your accountant the same accountant as the

7 accountant from PJ Burke (Sales) Limited?

8 A. He was, yes, Andy Casey, was his name of McNallys.

9 245 Q. And is it the position, then, that for the time that

10 these standing orders were being paid by Kilnarnagh

11 Estates, up to 1982, that you were in receipt of a

12 proportion of the funds that were paid by Kilnarnagh

13 Estates?

14 A. I would have been in - as the owner of the company, I

15 would have been paid - I would have received, or

16 transferred, or arranged to be transferred on my behalf

17 into the company, or into my own personal accounts,

18 yes.

19 246 Q. Up to 1982?

20 A. Up until 1982, at the time it ceased trading, yes.

21 247 Q. Because your accountants told the Revenue Commissioners

22 --

23 .

24 MR. WALSH: Sorry, Sir --

25 .

26 248 Q. MS. DILLON: -- in February of 1986 --

27 .

28 MR. WALSH: Sorry --

29 .

30 CHAIRMAN: I want to find out what the objection is.

1

MR. WALSH: Thank you, Sir.

3

4 I've listened to the train of questions from

5 Ms. Dillon, and now she has mentioned the word

6 "Revenue", and talks about the accountants dealing with

7 the Revenue.

8

9 I think you've already ruled now that, and Ms. Dillon

10 has previously quoted your previous rulings, you've

11 already ruled and mentioned quite openly that this

12 inquiry isn't for the purposes of the Revenue

13 Commissioners, and it has nothing to do with the

14 Revenue Commissioners. And this question sounds very

15 like a Revenue Commissioners' inquiry --

16

17 CHAIRMAN: We are going to have to wait until the

18 question is asked, then rule on it. I couldn't

19 certainly rule on it in advance, because I don't know

20 what Ms. Dillon is going to say.

21

22 MR. WALSH: But I know what she is going to say. In

23 any correspondence between the accountant --

24

25 CHAIRMAN: I personally must know before I can make a

26 ruling. I will not allow the question to be answered

27 until I have heard it and ruled. And if necessary,

28 heard you.

29

30 Now, Ms. Dillon.

1 .
2 MS. DILLON: Mr. Burke has told you, Sir, that of the
3 funds that were paid by Kilnarnagh Estates to the
4 credit of PJ Burke (Sales) Limited between the period
5 April '75 to August 1982, he was in receipt, by
6 transfers or otherwise, from this account of a
7 proportion of that money.

8 .
9 The company ceased trading in 1982, according to
10 Mr. Burke's evidence. And he says up until 1982 he was
11 in receipt of these transfers. I wished to put to
12 Mr. Burke, an apparently inconsistent statement that
13 had been previously made on his behalf by his
14 accountants, for the purpose of clarifying whether, in
15 fact, he is correct in his recollection, or which is
16 the correct version of events.

17 .
18 It is of no interest to me, in this line of
19 questioning, what settlement or arrangements were made
20 with the Revenue, or any matters such as that sort, I
21 am not interested in that. I am simply interested,
22 only, in the factual matter, whether as a matter of
23 fact he was in receipt of income or not from this
24 company up to 1982.

25 .
26 MR. WALSH: My objection --

27 .
28 CHAIRMAN: Confine yourself to the precise proposition
29 which is being put by Ms. Dillon.

30 .

1 The reality of it is, that as I see it, that I agree
2 with you, that matters of Revenue settlement or
3 otherwise are not germane to this Tribunal, but
4 statements of fact in relation to income, as to whether
5 it was on income or otherwise, would appear to me, if
6 it's made by an accountant, to be relevant.

7 .

8 Now, taking it on that principle, may I have your
9 assistance.

10 .

11 MR. WALSH: Yes, certainly, Sir.

12 .

13 Firstly, Ms. Dillon is going to refer to a letter from
14 the accountant, and it's a very short letter using
15 technical accountancy tacts, phrases of art, which are
16 in a Revenue and an accountancy context.

17 .

18 Now she is going to extrapolate from the wordings used
19 there and try and say that Mr. Burke's evidence is
20 different.

21 .

22 Now, the first point I would make about that, Sir, is
23 that the accountant isn't here, and we've no evidence
24 of what he said, and we've had no evidence of what he
25 means in the letter.

26 .

27 We've had no evidence from the Revenue Commissioners as
28 to what they take out of the meaning of this course of
29 correspondence.

30 .

1 Now, that's the first point.
2 .
3 So, I think it's unfair to take a letter that wasn't
4 written by Mr. Burke, admittedly written on his behalf,
5 but by an expert to people. And there is no evidence
6 as to what the people took out of the - the writer of
7 the letter knew what he was saying in a technical
8 sense, and the receiver of the letter understood what
9 was being said in the technical sense --

10 .
11 CHAIRMAN: Is it your premises that - what I read in
12 the letter, in the English language, I can't --

13 .
14 MR. WALSH: If it's a technical letter. This is one
15 letter that's picked out --

16 .
17 CHAIRMAN: Can I see the letter before we go on with
18 this debate? Because I can't decide upon that until
19 I've seen the letter.

20 .
21 MR. WALSH: The other point that I am making, Sir, is
22 that the evidence - the proposition, the narrow
23 proposition that Ms. Dillon has referred to is that
24 Mr. Burke has given evidence --

25 .
26 CHAIRMAN: Please, would you read the letter that's
27 been questioned. How could that be in any way
28 offensive to your client?

29 .
30 MR. WALSH: Sorry, Sir?

1 A. Can I have a look at it?

2 .

3 CHAIRMAN: Of course you can read it, Mr. Burke, why

4 not?

5 .

6 The letter of the 11th of February, 1988, from Messrs.

7 - sorry, 31st, from McNally & Company to the Revenue.

8 It's a simple and innocent letter. There is nothing in

9 it.

10 .

11 MR. WALSH: Sir, but the point is, Ms. Dillon has said

12 that - and has referred you to the narrow proposition

13 for this question being a proper question, that

14 Mr. Burke has just given evidence that he received some

15 monies by way of directors' borrowings from the

16 company. Ms. Dillon is going to say, "Isn't that

17 contrary to what that letter says?"

18 .

19 CHAIRMAN: What's wrong with that?

20 .

21 MR. WALSH: Because that letter says there is income,

22 Sir, and there is a difference between income and

23 directors' borrowings, Sir. That's the point.

24 .

25 CHAIRMAN: You can make that point in due course. If

26 somebody receives a payment from a company, and they

27 have given evidence that it ceased to a particular

28 date, then this letter is simply saying that he had no

29 income from the company, from a particular date.

30 .

1 MR. WALSH: Sir, that is precisely the reason I made
2 the objection. It seems like simple English, but that
3 is written by an accountant in a taxation context to
4 the Revenue Commissioners, and "income" has a certain
5 meaning, and "directors' borrowings" has a certain
6 other meaning, and are treated as such for tax
7 purposes. So the reason --

8 .

9 CHAIRMAN: I have no interest in tax. This is income
10 moving from A to B; income in the sense that you can
11 spend it, you can buy fags with it and buy pipes.

12 .

13 MR. WALSH: I know, Sir, but that letter is a technical
14 letter --

15 .

16 CHAIRMAN: No, I am ruling against you. I find no
17 basis for that proposition.

18 .

19 Ms. Dillon.

20 .

21 249 Q. MS. DILLON: Mr. Burke --

22 .

23 CHAIRMAN: Sorry, I got a copy from somebody.

24 .

25 250 Q. MS. DILLON: That's my copy, Sir, that's all right.

26 .

27 Mr. Burke, in fairness to yourself, and in view of
28 Mr. Walsh's concerns in relation to the matter, and
29 subject to any submission that you may like to have
30 made on your behalf, by your accountant in connection

1 with this matter, this letter, at page 5407 of the 31st
2 of February 1980, was sent to the collector general by
3 your accountants, Mr. McNally and Company.

4 .

5 And that says:

6 .

7 "Please note that he has no income from this company,"
8 referring to PJ Burke (Sales) Limited "since December
9 '77. And that the full allowances should be granted
10 against his Dail salary and ministerial allowances."

11 .

12 A. That seems to be it, yes.

13 251 Q. Is it your position, as outlined momentarily ago by
14 your counsel, that in fact your payments from PJ Burke
15 (Sales) were by way of directors' loans?

16 A. They would have been directors' loans, yes.

17 252 Q. Was it the position that you were ever a salaried
18 employee of PJ Burke (Sales), the P 60 or whatever?

19 A. It would have been going back in - way back prior to
20 '77, yes.

21 253 Q. Prior to 1978 - because if we have page 5406, Mr.
22 Burke, we will see that, in fact, you were effectively
23 treating PJ Burke (Sales) Limited as your employer --

24 A. Mm-hmm.

25 254 Q. -- for the period '72 to '78?

26 A. Well, whatever way the accountant describes it. I
27 wouldn't be au fait with the accountancy terms, but it
28 looks that way, yes.

29 255 Q. This was a document that was submitted by Mr. McNally
30 on your behalf when he was dealing with the Revenue and

1 sorting out your affairs?

2 A. Well, McNally & Company.

3 256 Q. McNally & Company?

4 A. There is no McNally, as such.

5 257 Q. But that certainly discloses that between 1972 and 1978

6 you were in effect a salaried employee of PJ Burke

7 (Sales) Limited?

8 A. It would have been income from the company, yes.

9 258 Q. We better get this clear now, Mr. Burke --

10 A. I would have been a salaried employee, I am sure, yes.

11 That would be probably the way you would describe it,

12 yes. I was the owner of the company.

13 259 Q. You were --

14 A. For all intents and purposes, I own - I was the major

15 shareholder in the company.

16 260 Q. Yes, but in so far as your accountant was dealing with

17 matters on your behalf, am I correct in understanding

18 that between 1972 and 1978 you were a salaried employee

19 of PJ Burke (Sales) Limited?

20 A. I would have taken down a salary from it, yes. I would

21 have taken a salary.

22 261 Q. And that you would have had a P 60 and matters such as

23 that sort from PJ Burke (Sales) Limited?

24 A. I haven't a clue at this stage. I don't know. I don't

25 know what way the accountant would have done it.

26 262 Q. And yet --

27 A. I assume that that's the way it was done, but I don't

28 have a clue. I left all of those sort of matters to my

29 accountant.

30 263 Q. And if we scroll across the page, please, and we come

1 to 1978/'79, we see that under the heading PJ Burke
2 (Sales) Limited" there is no income recorded for the
3 first time?

4 A. That's right.

5 264 Q. And if we move on to the period '79 to '84, '85, at
6 page 5405, we see that the only income - if we can
7 scroll back to the beginning of the page, please - the
8 only income that's disclosed is your ministerial
9 salary, pension, and your TD salary and dividends?

10 A. That's right.

11 265 Q. And that goes across, then, from 1979 to 1985?

12 A. That's the way it is there, yes.

13 266 Q. So that it would appear, in so far as the period '72 to
14 '78 is concerned, that you were a salaried employee of
15 PJ Burke (Sales) Limited?

16 A. That seems to be the way he handled it, yes.

17 267 Q. And in that period of time you were in receipt of
18 payments or, sorry, transfers from the account of PJ
19 Burke (Sales) Limited, which were lodged to your
20 personal accounts?

21 A. During the period from '7 --

22 268 Q. 1975 to 1983.

23 A. I would have been, yes.

24 269 Q. You would have been. And if we go through those, and
25 we can see, in fact, the money being withdrawn from the
26 account of PJ Burke (Sales), and being lodged to your
27 personal accounts.

28 A. That would have been right, yes.

29 270 Q. That would be the position, would it?

30 A. That would be the position, yes.

1 271 Q. If we look at page 5275, please. This is the No. 1
2 account of PJ Burke (Sales), the current account. You
3 will see there, on the 7th of July 1975, a withdrawal
4 of ú1,000. It's on the screen beside you, Mr. Burke.

5 A. Okay.

6 272 Q. If we turn then to 5266, which is your account, your
7 personal account --

8 A. It would have come in there.

9 273 Q. You will see on the 7th of July a lodgement across of
10 ú1,000?

11 A. Yes. There is no argument about that at all.

12 274 Q. If we turn to 5279, again PJ Burke (Sales) No. 1
13 account, we see on the 15th of October '75, a
14 withdrawal of ú2,000.

15 .

16 And if we turn to page 5265, we see, on the 15th of
17 October of 1975, ú2,000 being lodged to your account?

18 A. That's correct.

19 275 Q. Again from PJ Burke (Sales).

20 .

21 If we turn to 5284. On the 26th of February of 1976,
22 we see that while there is a lodgement credit of
23 ú5,000, there is then a withdrawal of ú5,000 and
24 ú2,000 --

25 A. Mm-hmm.

26 276 Q. -- on that date?

27 A. Yes.

28 277 Q. And if we look at 5264, which is your personal account,
29 we see on the 26th of February, 1976, ú2,000 being
30 lodged to your personal account?

1 A. That's right, yes.

2 278 Q. And if we look at PJ Burke (Sales), page 5284, the
3 current account again, on the 26th of February, 1976,
4 we see a withdrawal of ú5,000?

5 A. Yes.

6 279 Q. And if we turn to your Manchester account at 5377, we
7 see a lodgement of ú5,000 on the 26th of February,
8 1976?

9 A. That's right.

10 280 Q. And if we look at 5393, an acknowledgment. There is an
11 acknowledgment from the Bank of Ireland in Manchester
12 of the receipt of those funds?

13 A. That's right, yes.

14 281 Q. If we turn to 5289, you will see that there is a
15 withdrawal of ú3,000 from the PJ Burke (Sales) account
16 on the 12th of May, 1976?

17 A. Yes.

18 282 Q. And if we turn to 5263, we see a corresponding
19 lodgement on the 12th of May, 1976, to your personal
20 account?

21 A. Absolutely.

22 283 Q. And if we look at page 5294, we see that there was a
23 withdrawal in September of ú2,000 from the PJ Burke
24 (Sales) account?

25 A. Yes.

26 284 Q. And if we turn to 5262, which is your personal account,
27 we see, on the 28th of September '76, a lodgement of
28 ú2,000?

29 A. Yes.

30 285 Q. At page 5297, in December '76, there is a withdrawal of

1 ú1,000 from PJ Burke (Sales) Limited, and a
2 corresponding lodgement to your personal account on
3 5261?

4 A. Yes.

5 286 Q. And if you look at 5307, you will see on the 28th of
6 July that there is a lodgement by Kilnamanagh Estates
7 of ú1,000, followed by an account transfer of ú1,500 on
8 the 28th of July '77?

9 A. Mm-hmm.

10 287 Q. If we turn to your personal account at 5260, we see on
11 the 28th of July '77, a transfer of ú1500?

12 A. Mm-hmm.

13 288 Q. Page 5351, we see a debit of 10,000 on the 1st of July,
14 1980, on the PJ Burke (Sales) account?

15 A. Mm-hmm.

16 289 Q. And if we turn to your personal account, at 5269, we
17 see on the 1st of July, 1980, a lodgement of ú10,000?

18 A. Yes.

19 290 Q. That would appear to be the same money going across?

20 A. That's right.

21 291 Q. And at 5361, in May of '81, there is a withdrawal of
22 ú2,000 in cash from PJ Burke (Sales).

23 .

24 If we turn to 5268, on the same date, there is a
25 lodgement of ú2,000 to your personal account?

26 A. That's right, yes.

27 292 Q. At 5255 - sorry, at 5370, on the 16th of March, there
28 is a debit of ú10,000 on the PJ Burke (Sales) No. 1
29 account?

30 A. Mm-hmm.

1 293 Q. Which is done on foot of a letter of request, which is
2 at 5382?

3 A. Mm-hmm.

4 294 Q. And you will have seen this, Mr. Burke. It's a request
5 for you to transfer ú10,000 from the PJ Burke (Sales)
6 Limited account and credit 7 to the account of Raphael
7 P Burke and ú3,000 to the joint account?

8 A. Mm-hmm.

9 295 Q. And it's signed by a Mr. William Burke and either a Mr.
10 or Ms. Brady?

11 A. Mr. Very much a "Mr."

12 296 Q. Mr. Brady. And that sum of ú10,000, which was
13 withdrawn, was credited ú7,000 as to your own account
14 at page 5267, on the 16th of March, ú7,000.

15 .

16 As to the joint account on the 16th of March, 5525, the
17 sum of ú3,000?

18 A. That's right.

19 297 Q. At 5339, there is a withdrawal of ú7,000 from the
20 account of PJ Burke (Sales) No. 1 account.

21 A. Mm-hmm.

22 298 Q. Which is then transferred into the Patrick J Burke
23 Limited No. 2 Account at 5257?

24 A. Mm-hmm.

25 299 Q. Do you see that, Mr. Burke?

26 A. I do.

27 300 Q. The ú7,000 goes into the Patrick J Burke deposit
28 account?

29 A. Yes.

30 301 Q. And you will see there that there is a debit in October

1 in the sum of ú5,000, the 22nd of October. Do you see
2 that?

3 A. Yes, I see that.

4 302 Q. If you turn to your own personal account at 5270.

5 A. Mm-hmm.

6 303 Q. You will see the corresponding ú5,000 lodgement on the
7 22nd of October?

8 A. Sure. It's all traced. It's all there. It's all
9 identified.

10 304 Q. And if you turn to page 5258, you will see on the 23rd
11 of January, 1975, a withdrawal of ú3,000.

12 .

13 And if we turn to the Manchester account at 5377, this
14 is your personal account. You will see a lodgement of
15 ú3,000 in January of '76?

16 A. Mm-hmm.

17 305 Q. Which appears to be the same money?

18 A. That's what I told you, that earlier on, in relation to
19 it, that rather than leaving it in current accounts,
20 that there was a question of lodging it into deposit
21 accounts to get some interest on it.

22 306 Q. And at 5259 we see that ú14,585 is being credited back
23 from the Manchester account to your personal account?

24 A. That's right.

25 307 Q. The position, therefore, it would appear to be, Mr.

26 Burke, that of the money that was being paid by
27 standing order by Kilnamanagh Estates, that the vast or
28 significant proportion of that money was being
29 transferred to your personal accounts and presumably
30 utilised by you for your personal expenses?

1 A. The Kilnarnagh Estates would have been one of the
2 clients of the company, and the money would have been
3 treated in the manner in which the accounts indicate.
4 But they were one of my clients.

5 308 Q. Were they the only people who were paying you by way of
6 standing order?

7 A. Because they were the biggest clients I had.

8 309 Q. So that the position is, is that between April of '75
9 and August of 1982, Kilnarnagh Estates paid
10 approximately €1,000 per month to Patrick J Burke
11 (Sales) Limited, of which you received a significant
12 proportion of those funds by way of direct transfer
13 into your personal accounts?

14 A. And they were fees that I earned as the company PJ
15 Burke (Sales) Limited, and on which taxes were paid, et
16 cetera, later on.

17 310 Q. And it's also the position that PJ Burke (Sales)
18 Limited ceased trading in the middle of 1982?

19 A. That's my recollection of it, around the middle of '82.

20 311 Q. And prior to this particular period in time, there is
21 no evidence of significant political donations being
22 made by Messrs. Brennan and McGowan to you. Isn't that
23 right?

24 A. Well, I didn't get any, other than the ones that I told
25 you. I got the major subs that you are aware of, that
26 we discussed the last day, and the only other subs I
27 would have got would have been at election time that I
28 told you.

29 .
30 I was, and it's common knowledge, had a very successful

1 hard working estate agency business, and like every
2 other citizen, was entitled to run a business. That's
3 the situation.

4 312 Q. The first significant - just one final question, Sir --
5 political donation that was made by Messrs. Brennan and
6 McGowan was ú50,000, Mr. Burke, that was paid to you in
7 December of 1982. Isn't that right?

8 A. It was paid - yes, December, 1982.

9 313 Q. After all of these transfers had ceased. Isn't that
10 right?

11 A. To the company. All of the work that the company had
12 been doing, yes, that work had concluded --

13 314 Q. In mid-1982?

14 A. In mid-1982.

15 315 Q. And up till the time that the company ceased trading,
16 you had not been in receipt of any significant
17 political donations from Messrs. Brennan and McGowan?

18 A. Other than at election time.

19 316 Q. -- of the significance of the ú50,000, for example?

20 A. Oh, absolutely not. I told you that the last day. I
21 would have got relatively small money - small sums at
22 election time.

23 317 Q. And after the company ceased trading and after the
24 standing orders were discontinued, you received, in
25 December, 1982, your first significant political
26 donation from Messrs. Brennan and McGowan --

27 .

28 MR. HAYDEN: The reference, I think, was to Mr.
29 Brennan.

30 .

1 318 Q. MS. DILLON: -- from Kalabraki Limited --

2 A. From Kalabraki Limited. From, as I understand it, from
3 the Brennan and McGowan group through the fundraising
4 that I - is my understanding of it. That's correct,
5 yes.

6 319 Q. So that between '75 and '82, you were in receipt of
7 monthly standing orders from Kilnarnagh Estates, and
8 then in December, 1982, after the company had ceased
9 business, you received ú50,000 from Kalabraki?

10 A. My company had been in receipt of fees for work done in
11 relation to Kilnarnagh Estates, and that concluded in
12 '82, in the middle of '82.

13 320 Q. And your company didn't keep the money, Mr. Burke,
14 because most of it went into your personal account --

15 A. Like most company owners, in a small business, that's
16 who you are working for. You are not working for
17 anybody - well, working for the State as well, but
18 that's - you earn your money to look after your family.
19 That's exactly what I was doing, and working hard for
20 it.

21 321 Q. Thank you, Mr. Burke. I think Mr. Hayden is here.

22 .

23 CHAIRMAN: Thank you, Mr. Burke, for the moment. We'll
24 resume at, say, five past 2.

25 .

26 Mr. Hayden, you have a problem.

27 .

28 MR. HAYDEN: No. It's just - the application was in
29 relation to the time frame for the delivery of
30 submissions, and my - I think a letter has gone into

1 the Tribunal requesting an extension of time.

2 .

3 CHAIRMAN: To when?

4 .

5 MR. HAYDEN: I think the 21st of December was what was

6 discussed and suggested in relation to the matter, Sir.

7 .

8 CHAIRMAN: It sounds like a rather long extension.

9 .

10 MS. DILLON: Sir, I spoke very informally to my

11 colleagues this morning, and I hadn't expected Mr.

12 Hayden to land me in it. Effectively, because I had

13 expressed a certain amount of sympathy, and I was not

14 suggesting that that was the date, but it would appear

15 to me, in the circumstances, where both Mr. Walsh and

16 Mr. Hayden are involved in the present module, that it

17 might not be unreasonable to have a date of the order

18 of maybe the 16th or the 17th of December for

19 conclusion of the written submissions in relation to

20 the matter, and possibly a short hearing, if that was

21 necessary, prior to Christmas.

22 .

23 MR. HAYDEN: Sorry, I didn't --

24 .

25 CHAIRMAN: I have no problem with that, provided it is

26 reasonably before Christmas; in other words, they can

27 do something, having heard all that has to be written

28 or said.

29 .

30 Now, let's fix a date now.

1 .

2 MR. HAYDEN: 17th of December.

3 .

4 CHAIRMAN: First of all, what day is the 17th of
5 December? Does anybody know?

6 .

7 MR. HAYDEN: It could be a Sunday now.

8 .

9 MR. WALSH: It's a Monday, Sir.

10 .

11 CHAIRMAN: All right, Monday, the 17th of December.

12 .

13 And I mean that date as a final date, and I want the
14 documentation in not later than 12 noon on that date.

15 .

16 Agreed?

17 .

18 MS. DILLON: Yes, Sir, we'll inform the rest of the
19 parties.

20 .

21 CHAIRMAN: Will you advise anybody else --

22 .

23 MR. HAYDEN: Much obliged, Sir.

24 .

25 CHAIRMAN: Thank you. Five past 2.

26 .

27 THE TRIBUNAL THEN ADJOURNED FOR LUNCH AND RESUMED AS

28 FOLLOWS:

29 .

30 .

1 THE TRIBUNAL THEN RESUMED AFTER LUNCH AS FOLLOWS:

2 .

3 322 Q. MS. DILLON: Mr. Burke, is it the position, Mr. Burke,

4 that the Tribunal now has a completed record of all

5 bank institutions in which you held bank accounts?

6 A. Yes, and I've given consents to the Tribunal for all

7 sorts of institutions, I think 20 individual consents,

8 and then one that covered nearly 100 institutions. So

9 I have no other records. And every record I had

10 available to me, I passed on to you, as it became

11 available.

12 .

13 And the particular ones that you mentioned this

14 morning, have only now or recently become available,

15 despite the fact that I had asked the bank for them,

16 and they didn't give them to me.

17 323 Q. And the position then - is the position, then,

18 correctly stated, that the offshore accounts that have

19 been held by you are the Jersey account in the name of

20 Caviar Limited, the AIB (Isle of Man) Bank account,

21 Bruton Street, Manchester, Northern Ireland?

22 A. That's the situation, yes.

23 324 Q. And other than those bank accounts, there are not now

24 and have never been any other offshore bank accounts

25 held by or for your benefit in a bank?

26 A. To the best of my knowledge.

27 325 Q. Have any bank, have any other financial accounts been

28 held in a financial institution other than a bank,

29 other than the ones that you have furnished to the

30 Tribunal to date

1 A. Overseas you mean?

2 326 Q. Well, we have to start, first of all, with the list

3 within the State. Is that complete in so far as

4 financial institutions such as building societies and

5 matters such as that sort?

6 A. As far as I am aware, yes.

7 327 Q. So far as offshore accounts in any financial

8 institution are concerned, do you now or have you ever

9 held any offshore account, other than the Jersey Caviar

10 account, AIB Isle of Man, Manchester, Northern Ireland

11 and Bruton Street?

12 A. No, that is, to the best of my knowledge, that is the

13 complete list. And I had no recollection of Manchester

14 or Belfast - excuse me. I had no recollection of

15 Foster Finance or the Isle of Man, or Manchester until

16 the - they recently came to notice.

17 328 Q. Yes. And you had previously failed to disclose the

18 existence of the Allied Irish Bank (Isle of Man)

19 account until June of last year?

20 A. As soon as I got the details, I brought it to your

21 attention.

22 329 Q. Yes. As far as property is concerned, Mr. Burke, is

23 it the position that you do not now and have never held

24 any property either directly or indirectly for your

25 benefit outside the State?

26 A. That's correct.

27 330 Q. In as far as property within the State is concerned,

28 have you disclosed all real property holdings held for

29 your benefit, either directly or indirectly, to the

30 Tribunal?

1 A. I have. I only had one home in my life, and that was
2 in my own name, and that was in Briargate.

3 331 Q. Yes. In so far as the purchase of stocks and shares
4 are concerned, were you involved in any such
5 transactions?

6 A. I had two sets of shareholdings, one in Smurfit and one
7 in McNerney. And in the period around, sometime in
8 the mid-80s, I think together, like most people in the
9 country, I bought a couple of oil shares in the
10 Atlantic, and they sunk like the Titanic, to an extent.
11 But all of that information has been made available to
12 you.

13 .
14 I had signed consents for every stock brokering firm,
15 every organisation under the sun, for you, and I am
16 sure you have the records. I have no further dealings
17 with them.

18 332 Q. In so far as you would have been the shareholder of any
19 such shares, Mr. Burke, you have disclosed to the
20 Tribunal all shareholdings that have been purchased on
21 your behalf or which are held beneficially for you?

22 A. In the period that was under discussion, yes, but since
23 I sold my home, I invested some money in bonds, but
24 that's it.

25 333 Q. That is the year 2000, 2001. I am not asking you about
26 that. I am saying apart from those transactions, Mr.
27 Burke, is it the position that you have disclosed all
28 shareholdings held in any company, whether held
29 directly or beneficially, that you have disclosed all
30 of those to the Tribunal?

1 A. I would have given you everything that I had, and also
2 given you consents to go everywhere under the sun to
3 find anything else that might have been out there. And
4 I believe that you would have the records of everything
5 that I would have had.

6 334 Q. I am not asking you to confirm records, Mr. Burke. I
7 am asking you to confirm from your own testimony, that
8 that is the position?

9 A. Yes, I am confirming that, that what I am aware of you
10 have - that I am aware of, you then have that
11 information.

12 335 Q. And other than property, your family home, which was
13 acquired by you and subsequently disposed of, other
14 than your family home, have you ever held, directly or
15 indirectly, any shares in any property inside the
16 State?

17 A. No.

18 336 Q. No.

19 A. Not to my knowledge. No. No, fullstop.

20 337 Q. Right.

21 A. I am --

22 338 Q. I am just asking you for the record, Mr. Burke.

23 A. No, no, I didn't.

24 339 Q. Nothing else. Was the transaction in Jersey, the
25 opening of the Caviar account, the first transaction
26 that you conducted in Jersey?

27 A. The first lodgement in Jersey, I was on holidays in
28 Jersey in 1979, and paid for the hotel by cheque in
29 July of 1979. That's the only transaction I ever had
30 in Jersey before.

1 340 Q. You were in a hotel - you were in holidays in Jersey in
2 1979?

3 A. I was on a family holiday in Jersey in 1979, in July of
4 1979. You have the details on the records there.

5 341 Q. Yes.

6 A. I, by arrangement, paid for the hotel by cheque, and
7 the records show that that was then sorted out between
8 - there was a reconciliation between Punts and Sterling
9 at the time, with the bank in Jersey, that obviously
10 acted for the hotel.

11 342 Q. You wrote a cheque for ú1,500 Sterling on your Irish
12 Punt account?

13 A. That's right.

14 343 Q. You made that cheque out to cash?

15 A. Yes.

16 344 Q. To pay a hotel in Jersey?

17 A. Yes. I was on holidays in Jersey, a family holiday.

18 345 Q. Page 5404, please.

19 .

20 If we start - if you could go back up to the top of the
21 page. This is a letter from Chase Bank (Channel
22 Islands) Limited. We've already seen some
23 documentation, Mr. Burke, in connection with Chase Bank
24 (Channel Islands) Limited?

25 A. Yes.

26 346 Q. This is a letter dated the 23rd of July of 1979,
27 addressed to the Manager Bank of Ireland in Whitehall?

28 A. That's right.

29 347 Q. And they enclose a cheque, which is the Cheque No. 722,
30 which is drawn on your personal account, isn't that

1 right?

2 A. Drawn on my personal account in Whitehall, yeah.

3 348 Q. In Whitehall in the sum of Sterling ú1,500?

4 A. That's right, yes.

5 349 Q. You signed the cheque as RP Burke and the payee is

6 cash?

7 A. That's right, yes.

8 350 Q. Did you pay the hotel by way of that cheque?

9 A. That is my recollection of it, yes.

10 351 Q. Were you able to offer the hotel in Jersey any security

11 or additional security other than your own cheque?

12 A. Well, I don't remember the exchange of conversation

13 between myself and the bank, or myself and the hotel,

14 but I would have I am sure when I was checking in,

15 they would have asked, "How do you intend paying?" And

16 I probably - I would have said to them, "I will pay by

17 cheque," and that would be it. There would be nothing

18 else.

19 352 Q. It is an unorthodox transaction, Mr. Burke, in as far

20 as you writing a cheque for Sterling, ú1,500, on your

21 Irish Punt account in Dublin?

22 A. No, there is nothing unusual about it at all. As far

23 as I would be concerned, I was paying for my holiday

24 with my children and my wife. That was it. Nothing

25 more, nothing less.

26 353 Q. Were you accustomed to writing Sterling cheques on your

27 Irish Punt account?

28 A. I don't probably recall ever doing it before or since.

29 354 Q. So this is the only time on which you wrote a Sterling

30 cheque on your Irish account?

1 A. That's right. It was the only time I was in holidays

2 in - that I paid for my holiday in this way.

3 355 Q. And --

4 A. Normally I would have paid for holidays with credit

5 cards or something like that, but this one I paid by

6 cheque.

7 356 Q. And you have a recollection of drawing that cheque in

8 favour of cash --

9 A. I have --

10 357 Q. -- to pay for the holiday?

11 A. I have no recollection of the cheque at all, other than

12 the period of July of '79 and the record that you show,

13 that that is the situation on it.

14 358 Q. Yes.

15 A. As to whether it was made out to cash or made out to

16 the hotel or not - I would have stayed in the L'Horizon

17 in St. Brelades Bay in Jersey. That is where I would

18 have been on holidays.

19 359 Q. Were you a member of the Oireachtas in 1979?

20 A. I was a Minister for State.

21 360 Q. And was the Dail still sitting at that stage?

22 A. Not in July.

23 361 Q. It doesn't sit in July?

24 A. No, it breaks at the end of June.

25 362 Q. Yes.

26 A. I would have gone on holidays. It was a tradition that

27 I had, when I was in that period, was that as Minister

28 for State - I was with Mr. O'Malley, who was the Senior

29 Minister, he would take the month of August off. I

30 would take most of July off.

- 1 .
- 2 That was the way we worked it, that there was somebody
- 3 always around in the office, and that's the situation.
- 4 That is why I would have been away in July.
- 5 363 Q. And this was to pay for the hotel accommodation, is
- 6 that correct?
- 7 A. That is as I would remember it, yes.
- 8 364 Q. It seems to be a very round figure sum for a hotel
- 9 bill, Mr. Burke?
- 10 A. It probably was rounded up or rounded down. I don't
- 11 know how it was done. That's the scenario. It would
- 12 have been to pay for hotel out there.
- 13 365 Q. And this payment was effected by the Bank of Ireland,
- 14 Whitehall sending a draft in the sum of ú1,500 to Chase
- 15 Bank (Channel Islands) on the 31st of July, 1979. Page
- 16 5392, please.
- 17 A. That's right. That is following the request for
- 18 payment from the bank in Jersey.
- 19 366 Q. It is an unorthodox way, Mr. Burke, for paying for your
- 20 holiday, isn't it?
- 21 A. It may be unorthodox to you. That is the way I did it.
- 22 367 Q. Was there ever any other circumstances in which you
- 23 conducted a similar type transaction?
- 24 A. No, to the best of my recollection.
- 25 368 Q. Is it possible that this transaction may have been
- 26 related to some other financial transaction you were
- 27 conducting in Jersey at that time?
- 28 A. I am on oath here. I have just told you I was on
- 29 holidays with my family, my children. I am entitled, I
- 30 believe, to bring my children, my wife and my children

- 1 on a family holiday. I paid for it that way.
- 2 369 Q. This amount was then debited from your account in its
- 3 Irish equivalent, isn't that right, your personal
- 4 account?
- 5 A. I assumed so. I haven't got it here in front of me. I
- 6 assume that is what they did.
- 7 370 Q. On the day, in fact, I think the 31st of July, 1979, on
- 8 day the bank draft was drawn and sent to Jersey?
- 9 A. Yes.
- 10 371 Q. There was a debit on your personal account?
- 11 A. I will look at it just to be safe and sound.
- 12 372 Q. Isn't that the position?
- 13 A. I will check it, and I will give it to you now, if you
- 14 just wait a moment. 1979.
- 15 373 Q. You will see a debit in the Punt equivalent on your
- 16 personal bank account?
- 17 A. Sorry, just one second. There is, for 1,686.59, I
- 18 assume that is, the Punt equivalent of the --
- 19 374 Q. ú1,500?
- 20 A. -- of the ú1,500. 1,686.59, yes.
- 21 375 Q. Is it your recollection that you paid for this when you
- 22 had concluded your stay in Jersey?
- 23 A. I beg your pardon? Sorry?
- 24 376 Q. Is it your recollection that you paid for this when you
- 25 concluded your stay in Jersey?
- 26 A. I would have paid for it at that time. That would be
- 27 my recollection of it now. I would have paid it at
- 28 that time.
- 29 377 Q. Is that when you were leaving?
- 30 A. I assume so. I assume so. But, look, it is 1979. I

- 1 was on a holiday with my children. I don't know the
2 exact day. I assume that is the way it was done.
- 3 378 Q. Why wasn't the cheque made out to the hotel, Mr. Burke?
- 4 A. I beg your pardon?
- 5 379 Q. Why wasn't the cheque made out to the hotel instead of
6 made out to cash?
- 7 A. Probably I got some cash, like they now call them,
8 "holes in the wall". In those days, you got cheques
9 and you paid the bill, and you would maybe get some
10 extra cash back or something like that. I don't know.
11 I have no detail of it at this - 1979 - I don't have a
12 detail of it.
- 13 380 Q. If we could go back to 5404, please.
14 .
- 15 You will see that the payee is cash, Mr. Burke?
- 16 A. Yes.
- 17 381 Q. So the cheque that you drew in Sterling on your Irish
18 Punt account on the 20th of July, 1979, was a cheque to
19 pay a hotel made out to cash?
- 20 A. Yes, I would have - whether the money was - whether the
21 exact bill was for 1,550 or 1,400, and just rounded up
22 the cheque and got the difference, or whatever way it
23 was done, I don't know. That would have been the way
24 it was, that the overall - was a round figure cheque of
25 1,500 quid, or maybe I handed it in at some time in the
26 middle of the holiday and said "Here is the cheque for
27 the thing," I don't know. I don't recall offhand. All
28 I know is that's what it was for.
- 29 382 Q. Is it your experience that hotels are accustomed to
30 have their bills in connection with their customers

1 staying, discharged by a cheque made out to cash?

2 A. Well, I was a Minister for State here in this country.

3 I don't think anybody would have questioned. They

4 would --

5 383 Q. You weren't a Minister for State in Jersey?

6 A. Sorry, I was answering the question, Mr. Chairman. If

7 we are going to get smart, I was a Minister for State

8 here. They would have known that when I was making

9 reservations and things like that, and most likely,

10 when I would have gone, they would have seen passports

11 and things like that. So there would have been no

12 question. Or I may have cleared it in advance with

13 them, that I was going to pay cash, I don't - or

14 cheque. I don't recall the details at this point in

15 time. That is what happened.

16 384 Q. If we can go back to look, Mr. Burke, at the disposal

17 or the winding up of PJ Burke (Sales) Limited. You

18 didn't sell that company, isn't that right?

19 A. No, I just let it wither on the vine. It just closed

20 up.

21 385 Q. You just closed it up?

22 A. I didn't want to go back to business, and I just let it

23 close, wind down. And eventually it was - rather than

24 putting it into liquidation, it was just struck off the

25 Register of Companies, because it hadn't traded. But

26 what I did was that I had made - fixed up the affairs

27 of the company to ensure that nobody was owed any

28 money, including Revenue, and just fixed up the - paid

29 off anybody that needed to be paid, which was Revenue,

30 really, and let the company just wither away, wither on

1 the vine. I didn't touch it.

2 386 Q. When did that fixing up of the affairs of the company
3 take place?

4 A. I will tell you now. I actually fixed up the Revenue
5 on the 4th of the 12th, '85.

6 387 Q. Where did you get the money?

7 A. I got a loan from the bank, the Ulster Bank under
8 05178362 is the account number.

9 388 Q. How did you repay that loan?

10 A. I paid it back on monthly amounts of ú471. I also got
11 a refund from some - from tax on the personal side of
12 things, as distinct from company side of things, for
13 10,000, and then I paid 471 by 18 on the - between the
14 3rd of the 9th '87, and 18 payments of that. And then
15 I sold shares and I got - I put in ú2,101.61 on the 7th
16 of the 9th '87 out of Smurfit shares that I had sold.
17 And that completed the loan in total. It was a loan of
18 20, and I paid off ú22,017.

19 389 Q. Did you commence repayments in 1987?

20 A. I paid - on the 3rd of January, 1986 I commenced
21 repayment.

22 390 Q. Out of what account?

23 A. It would have been out of my own personal account, I
24 assume. It would have been on a Standing Order.

25 391 Q. It would have been on the Ulster Bank?

26 A. I will get it out for you now.

27 392 Q. From the Ulster Bank?

28 A. From the Ulster Bank. It would have been a Standing
29 Order of some sort. The 3rd of January, '86, was the
30 first --

1 393 Q. The company had been in receipt of significant payments
2 from Kilnarnanagh Estates and other customers of yours,
3 of PJ Burke (Sales), isn't that right?

4 A. Yes, I had a, quite a number of customers, yes.

5 394 Q. I mean, your customers weren't Limited to Kilnarnanagh
6 Estates?

7 A. No. No. No.

8 395 Q. So Kilnarnanagh Estates were the only customer that were
9 paying you by way of Standing Order. You did act for
10 other people as well?

11 A. I acted for a lot of people, yes.

12 396 Q. I beg your pardon?

13 A. I acted for a lot of companies, yes.

14 397 Q. Why didn't you sell the company?

15 A. I didn't bother, because at that stage it was gone - by
16 the time I retired or by the time I closed it up, the
17 client base had gone from it, because I had not been
18 dealing with it very effectively, because I had been in
19 government, and I hadn't continued to build up the
20 company. It was just a - dealing with existing
21 clients, really, at that stage when it was closed up.
22 And there was nothing left to sell, because there was
23 no client base, as such. I had put all my efforts into
24 my political career.

25 398 Q. The company in 1981 had been in receipt of ú12,000 from
26 Kilnarnanagh Estates, and in addition, up to the date of
27 its closure in 1982, had been in receipt of ú7,000 from
28 Kilnarnanagh Estates?

29 A. Yes. Well, I had concluded the account with my
30 business, my business with - or the agency that I had

1 with Kilnarnanagh at that stage, there was nothing to
2 sell, and it never even crossed my mind to sell it,
3 because there was nothing left there.

4 399 Q. Yes?

5 A. There was no base. The - there were no clients left.

6 It had just withered away.

7 400 Q. The income that PJ Burke (Sales) made between '75 and
8 '82 was not limited to the money it received from
9 Kilnarnanagh Estates?

10 A. No, it wasn't.

11 401 Q. But the average amount that Kilnarnanagh Estates paid
12 was ú12,000 per annum?

13 A. That's correct, it was 1,000 a month against fees.

14 402 Q. And there would have been a liability to VAT at that
15 time, Mr. Burke, for sales in excess of ú12,000 per
16 annum?

17 A. Well, now you are telling me. I don't know that.

18 403 Q. You don't know that?

19 A. I don't know that. I would have to talk to accountants
20 about that. I have no knowledge of that.

21 404 Q. Well, do you have any knowledge as to whether any VAT
22 invoices were exchanged on foot of the arrangement
23 between Kilnarnanagh Estates and PJ Burke (Sales)
24 Limited?

25 A. I have no idea. I have no idea at this stage in time.

26 But I very much doubt it, to be frank.

27 405 Q. Did the company have an office?

28 A. Yes, I operated from the side of my home at 215 Swords
29 Road. That is where the office was.

30 406 Q. Did it have employees?

1 A. It had a secretary and myself. We ran the operation
2 and I had two other - a brother-in-law and a brother
3 that used to work the show houses for me on weekends,
4 some of the show houses. When I wasn't in show houses,
5 or if we had more than two or three show houses, I
6 would work the show houses as well. If I couldn't
7 handle them all, they would work and do some part-time
8 for me.

9 407 Q. Is it a coincidence, Mr. Burke, that within a number of
10 months of PJ Burke (Sales) ceasing trading you were in
11 receipt of ú50,000 from Kalabraki?

12 A. It is a coincidence, yes. It was a political donation
13 which is still there. I am sure you don't want me
14 going into that again.

15 408 Q. And if we can go back, briefly, while we are on the
16 subject of coincidences. Is it a coincidence that when
17 you gave evidence on the first occasion and Mr. Brennan
18 and Mr. McGowan gave evidence on the first occasion,
19 that everybody forgot about the Kalabraki ú50,000?

20 A. No, I told you the last day, and I have nothing further
21 that I can add to it, other than what I have explained
22 to you the last day in relation to that.

23 409 Q. Is it a coincidence?

24 A. I have explained to you already on the last day all my
25 evidence, and there is nothing further that I can add
26 that would be of benefit to the Chairman on that.

27 410 Q. Is it a coincidence that when Mr. Brennan and Mr.
28 McGowan gave evidence and when you previously gave
29 evidence, none of you mentioned the Kalabraki 50,000
30 payment to you? Is that a coincidence?

1 A. You would have to ask Mr. Brennan and Mr. McGowan. I
2 gave you my evidence in relation to overseas accounts,
3 and when I got the details of that one, the Kalabraki
4 payment, I brought it to your attention immediately.

5 411 Q. You don't want to answer the question.

6 .

7 Is it a coincidence, Mr. Burke --

8 A. I told you, I can't answer for Mr. Brennan or Mr.
9 McGowan.

10 412 Q. Is it a coincidence that both yourself, Mr. Brennan,
11 and Mr. McGowan, when you were giving evidence on the
12 first occasion, all thought that the ú60,000 that went
13 to Caviar was as a result of the Ernst Ottiwell/Joseph
14 McGowan fundraising?

15 A. I gave you my understanding of that fundraising, the
16 understanding in relation to that payment. It turns
17 out that my understanding, which I got from Mr.
18 McGowan, and from Mr. McGowan's evidence here, had been
19 incorrect. That I can't be held responsible for. I
20 gave you my understanding of it.

21 413 Q. Is it a coincidence that neither yourself, Mr. Brennan,
22 or Mr. McGowan recollected the ú15,000 April 1985
23 Caviar payment as a separate and distinct payment to
24 you?

25 A. I gave you my recollection of it. I was incorrect, and
26 I corrected that with a letter to the Chairman. As to
27 the other two gentlemen, I can't answer for them.

28 414 Q. Are they all coincidences, Mr. Burke?

29 A. I have given you my understanding of the situation,
30 that's it.

1 415 Q. Yes. Did yourself and Mr. Brennan and Mr. McGowan
2 ever get together prior to either or any of you giving
3 evidence to this Tribunal?

4 A. Absolutely not.

5 416 Q. Why not?

6 A. Why not?

7 417 Q. Yes.

8 A. Because I would be very conscious of the fact of being
9 the subject, being subject to allegations of collusion
10 or something else here, and I wasn't going to get into
11 that. I did, of course, speak to Mr. Brennan and Mr.
12 McGowan after I resigned. We have been friends for
13 years right back to the '60s. They obviously
14 sympathised with the situation that I found myself in,
15 in 1997, when I resigned. So I would have spoken to
16 them on a number of occasions.

17 418 Q. So, these similarities, and these similar lapses of
18 memory, and similarities in evidence, arise
19 accidentally. Is that so?

20 A. No --

21 .

22 MR. WALSH: Sorry, Sir, might I just make a point about
23 that. I didn't want to intervene too often.

24 .

25 Ms. Dillon, in using phraseology such as "is it a
26 coincidence," "are these similarities," they are not
27 proper questions. They fall under one of two headings.
28 One, they show that she is exercising a judgement of
29 the matter. It is up to you to exercise a judgement or
30 form an opinion. Or secondly, they fall into the

1 category of commentary. She is making a commentary and
2 asking the witness to agree with her commentary. That
3 is not a proper way to formulate a question.

4 .

5 MS. DILLON: I can go back through it all and put the
6 questions in a different way.

7 .

8 CHAIRMAN: I think it might be desirable.

9 .

10 MS. DILLON: We have already gone through all the
11 transcript references in relation to it.

12 .

13 419 Q. MS. DILLON: Is it the position, Mr. Burke, that when
14 you gave evidence here on Day 69, you did not disclose
15 the existence of the ú50,000 Kalabradi account to the
16 Sole Member; is that a fact?

17 A. That is fact, I didn't have the details of it. When I
18 got the details of it later, I brought it to the
19 attention of the Chairman.

20 420 Q. Yes. Is it a fact, that when Mr. Brennan and Mr.
21 McGowan gave evidence here on Day 144, they too did not
22 disclose the existence of the ú50,000 Kalabradi account
23 to the Sole Member?

24 A. Well, if that is what the record shows.

25 421 Q. Yes. Did you have any discussion with Mr. Brennan, or
26 Mr. McGowan, prior to your giving evidence, or Mr.
27 Brennan or Mr. McGowan giving evidence on Day 144?

28 A. I spoke to them on various occasions, as I have told
29 you earlier on, a couple of minutes ago, but I did not
30 discuss the evidence factor with them.

1 422 Q. Yes. When you gave evidence previously in connection
2 with the ú60,000 fundraising, you were of the view,
3 similar to the view of Mr. McGowan, that this was as a
4 result of the Ernst Ottiwell/Joseph McGowan fundraising
5 activities in England?

6 A. That is what I understood from Mr. McGowan, and I gave
7 that evidence here as my understanding of the
8 situation. It turns out that part of it apparently
9 came from Mr. Finnegan, it was some sort of
10 fundraising. I don't know what way it was done, but
11 the details of it were from Mr. McGowan's - the detail,
12 as distinct from the principle came from Mr. McGowan's
13 evidence here on 144.

14 423 Q. And your evidence is similar to the evidence given by
15 Mr. McGowan, on Day 144?

16 A. Well, it would have been quite extraordinary if it was
17 different, because that was my understanding of it at
18 the time, and I had no reason to have any question in
19 relation to the evidence. I just gave you my
20 understanding of the situation.

21 424 Q. And is it the position that prior to March of this
22 year, you did not recollect or disclose to the Tribunal
23 the payment to Caviar Limited in April, 1985, as a
24 separate payment through Messrs. Brennan and McGowan?

25 A. I was confused about it, as I have already apologised
26 to the Chairman, and corrected the record in relation
27 to it. And that's the situation. There is nothing
28 further I can add to it.

29 425 Q. And isn't it the position that when Mr. Brennan and Mr.
30 McGowan were giving evidence on Day 144, neither of

1 them disclosed to the Tribunal the existence of the
2 ú15,000 Canio payment to your company, Caviar Limited,
3 as a separate payment to you?

4 A. I can't answer for the two of them. I can only answer
5 for myself.

6 426 Q. You have read the transcript, I understand, of Day 144?

7 A. I would have read the transcript of 144. The
8 particular question that they were asked were in
9 relation to the 60,000 payment, as I recall.

10 427 Q. So, in relation to those fairly significant matters, I
11 suggest, Mr. Burke, there has been a marked similarity
12 in the evidence given by Mr. Brennan, Mr. McGowan, and
13 yourself, in relation to those fairly important
14 matters?

15 A. No --

16 428 Q. Isn't that right?

17 .

18 MR. WALSH: On the phraseology of that question --

19 .

20 CHAIRMAN: I don't want the question answered. I want
21 you to tell me what your problem is.

22 .

23 MR. WALSH: She has said --

24 .

25 CHAIRMAN: Ms. Dillon --

26 .

27 MR. WALSH: Ms. Dillon has said there is a marked
28 similarity between the evidence. That is a commentary
29 or an expression of opinion, Sir, that is an entirely a
30 matter for you.

1

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2

CHAIRMAN: I accept that it is in the phrase of - the

3

manner of a comment. If you want to make it, "is there

4

not a marked similarity", it is a question. So really,

5

if you want to make that distinction, yes, but that --

6

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7

MR. WALSH: That would be a question as so phrased.

8

Still, it is asking this witness to express an opinion

9

on it.

10

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11

CHAIRMAN: No, it is asking this witness to express his

12

opinion.

13

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14

MR. WALSH: But his opinion is irrelevant. It is your

15

opinion that counts, Sir, with respect.

16

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17

CHAIRMAN: This gentleman's opinion is very much

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relevant, because it is he that was involved in the

19

transaction. He makes a judgement as to whether, in

20

his opinion, it was an appropriate relationship. I am

21

not denying him his right to do that.

22

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23

MR. WALSH: We are not talking about the transaction

24

now. We are talking about trying to compare evidence

25

that has been given about it. Now, comparing the

26

evidence and examining the evidence and forming an

27

opinion on the evidence that has been given is a matter

28

solely for you, Sir, not for any of the witnesses.

29

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30

MS. DILLON: This witness, Sir, has given evidence on a

1 number of occasions to this Tribunal. This witness has
2 not, and did not, until March, June of 2000, disclose
3 the existence of the Kalabradi account, at which stage
4 he had already given evidence once.

5 .

6 In the course of the second run of evidence, during the
7 financial evidence of Mr. Burke, at the conclusion of
8 the Century Module, this witness was adamant that the
9 ú15,000 that was lodged to the Caviar account, in April
10 of 1985, was a relodgement of an earlier withdrawal
11 that had taken place. Mr. Burke and Mr. McGowan never
12 gave evidence of any ú15,000 payment to Mr. Burke. Mr.
13 McGowan and Mr. Brennan, when giving their evidence on
14 Day 144, did not mention the ú50,000 Kalabradi payment.

15 .

16 The ú60,000 Caviar payment was attributed by this
17 witness and by Joseph McGowan on Day 144 to being the
18 results of the Ernst Ottiwell/Joseph McGowan
19 fundraising. That evidence has now been retracted by
20 Mr. Joseph McGowan, and indeed, by Mr. Tom Brennan, who
21 accept that, in fact, rather than being an accumulation
22 of fundraising activities, it was a separate and
23 singular donation to Caviar Limited or to Mr. Raphael
24 Burke. I simply wish to give the witness an
25 opportunity to comment on and explain, if he can, the
26 reason why all three of these people, who have given
27 testimony to you, made the same mistake in relation to
28 the evidence that they gave. That's all.

29 .

30 If Mr. Walsh doesn't want this to continue in that

1 fashion, I have no difficulty, we will move on to
2 something else.

3 A. As far as the 15,000 is concerned, Mr. Chairman, I gave
4 you my recollection of that. I found that I was in
5 error, and I brought that error immediately to your
6 attention, and corrected the situation at the earliest
7 opportunity that I could, arising from records that
8 became available through ourselves and through you, the
9 efforts of the Tribunal.

10 .

11 As far as the evidence of Mr. Brennan and Mr. McGowan,
12 I can't be responsible for what they said on Day 144.

13 But as far as Mr. McGowan retracting the question of
14 fundraising, my recollection is that in his last day in
15 the box in cross-examination by Mr. Walsh, Mr. Walsh
16 made the point to him, that the 60,000, that it would
17 have been Mr. Burke's recollection that the 60,000 came
18 from fundraising. And Mr. McGowan's evidence, if I
19 recall it, was that yes, he could have believed that it
20 was fundraising.

21 .

22 It is quite simply the situation that my understanding
23 at all times was that the 50 and the 60 were
24 fundraising. As far as the information on the 50 to
25 the Tribunal is concerned, I explained the last day I
26 was in the box here, last Friday to you Mr. Chairman,
27 about the account of Caviar, and that as soon as I got
28 the information from the bank in the Isle of Man about
29 the details of the 60,000, I immediately brought it to
30 your attention.

1 .

2 I was the one that brought to the attention of the

3 Chairman and the Tribunal the existence of Kalabraki.

4 It was myself. And that's the situation on it.

5 .

6 But I gave you my understanding of the situation at all

7 times, and my understanding came from Mr. Brennan and

8 Mr. McGowan, but mainly from Mr. McGowan.

9 429 Q. Yes. And you had no knowledge or understanding, until

10 this year, that the ú50,000 Kalabraki payment was, in

11 fact, a donation from Mr. Brennan's own company --

12 A. Well, I told --

13 430 Q. -- from Mr. Brennan?

14 A. Well, I told you the other day, and I can reiterate it

15 for you now, Mr. Chairman, as far as I was concerned,

16 that came from the Brennan and McGowan organisation of

17 - through fundraising efforts, as to which avenue was

18 used or which particular bank or which particular

19 account, was none of my business. They would have had

20 over 100 different companies and accounts, as I

21 understand it, from reading the transcripts of the

22 Tribunal over the last number of months.

23 .

24 So, as to the specifics that it came from, Mr.

25 Brennan's company as distinct from one other company

26 within the group or a combination of companies, I had

27 no knowledge of that.

28 431 Q. Yes. Is it the position, then, that in so far as Mr.

29 Ernst Ottiwell was concerned, that if Mr. Ottiwell was

30 engaged in the fundraising activities which have been

1 described by you in your earlier testimony and by Mr.
2 McGowan, in his testimony, if Mr. Ottiwell was engaged
3 those activities, you did not receive any benefit from
4 that?

5 A. The only benefit I received is as I have already
6 explained to you. The situation is the 50, the 60, the
7 15, and whatever small, relatively small sums I would
8 have received at the time of General Elections. They
9 would have been a couple of thousand, or it could have
10 been two, it could have been three, or one, at
11 different elections. It could have been up to three or
12 four. I can't be specific on a particular sum. But
13 that's all. There would have been nothing else in
14 between.

15 432 Q. And in so far as Mr. McGowan has described that a sum
16 of ú10,000 was being raised a year for 12 years, and
17 that this money was to benefit you, or you and Fianna
18 Fail, in so far as you are concerned, Mr. Burke, you
19 did not receive any of those funds?

20 A. I have no knowledge of it whatsoever. The only
21 knowledge I have of that was the evidence given by Mr.
22 McGowan here in witness-box, and I've no personal
23 knowledge of it, and did not receive it and I have no
24 idea about it. I never discussed the word - I was
25 amazed when I heard him say that there was a question
26 of targets or something like that. I never heard it.
27 I never had such a discussion.

28 433 Q. Yes. In so far as you may have met Mr. Ottiwell, as I
29 understand your evidence, did you ever receive any
30 payments from Mr. Ottiwell?

1 A. No. I told you I - Mr. Ottiwell would have been, on
2 the occasions I met him, would have been in the company
3 of Mr. McGowan when I gave Mr. McGowan the details of
4 the accounts.

5 434 Q. Were you ever present at any of these fundraising
6 activities that were described by Mr. McGowan?

7 A. Absolutely not, and there was never a suggestion by
8 anybody that I was present at any of time, as far as I
9 know. I know nothing about them.

10 435 Q. Did you discuss on an on-going basis, between 1972 and
11 1982, the fact that such fundraising was being carried
12 out?

13 A. No. The question of a couple of dinner parties was
14 mentioned to me. That was it. I have no other
15 knowledge of it.

16 436 Q. Did you have discussions in a general way with
17 Mr. McGowan about fundraising activities that were
18 being carried out for your benefit?

19 A. Just in the sense of a couple of dinner parties, that's
20 all, as I understood it.

21 437 Q. You had previously indicated to the Tribunal, when you
22 gave your evidence, that you had discussed in a general
23 way the fundraising with Mr. McGowan, even though you
24 had not, in fact, yourself attended any such
25 fundraising events?

26 A. That is exactly what I am saying to you now.

27 438 Q. So were you having discussions on an on-going basis
28 with Mr. McGowan about fundraising in England?

29 A. No.

30 439 Q. Well, when did you discuss with Mr. McGowan, when did

1 he tell you about these fundraising activities?

2 A. That - he just mentioned to me the general - that they
3 had been raising funds and that it was being
4 transferred into my accounts. I gave the details of
5 the accounts to Mr. McGowan. As far as the details,
6 these race meetings and everything else, I had no
7 details. I had no knowledge of that until I heard of
8 it in 144 here in the witness-box.

9 440 Q. And when you say that you had a conversation with Mr.
10 McGowan, was this prior to the Kalabradi payment of
11 ú50,000 in 1982?

12 A. It would have been, yes. At the time of the Kalabradi
13 payment in 1982.

14 441 Q. That was 1982?

15 A. It was December 1982.

16 442 Q. That's correct. In so far as these fundraising
17 activities were described by Mr. McGowan as going on
18 from 1972.

19 A. Yes.

20 443 Q. You were not aware, from 1972 to 1982, of the fact of
21 there being any such fundraising activities? Is that
22 the position?

23 A. Other than the odd dinner party that I understood was
24 being held, that's all. I told you that I got no other
25 funds from Mr. McGowan at that time. The only funds
26 that came through are the funds that I told you about.

27 444 Q. What dinner parties, Mr. Burke?

28 A. I understood that Mr. McGowan had had a couple of
29 dinner parties that were fundraising in his home for
30 me, but they were mainly, as I understood it also, from

1 colleagues within the Brennan and McGowan Group. I

2 don't know who else.

3 445 Q. Are you talking about - I beg your pardon?

4 A. That is all I have to say to you.

5 446 Q. Are you talking about fundraising activities within

6 this jurisdiction?

7 A. Some of it would have been here, but the main portion

8 of the fundraising that I understood, from Mr.

9 McGowan's evidence to you, it is strictly my

10 understanding of it, is that it was fundraising outside

11 the jurisdiction.

12 447 Q. That it was fundraising outside the jurisdiction?

13 A. Yes.

14 448 Q. For how long had that been going on, do you understand?

15 A. I have no knowledge of how long it had been going on.

16 449 Q. You had previously told the Tribunal that you had

17 discussed these fundraising activities with both Mr.

18 Ottiwell and Mr. McGowan?

19 A. On the day that the funding was transferred over.

20 450 Q. Other than the day on which the funding was transferred

21 over, is it now your position that you did not have any

22 discussions of any kind with Mr. McGowan or Mr.

23 Ottiwell or Mr. Brennan about fundraising that is

24 supposed to have been carried on for your benefit in

25 England?

26 A. That is my recollection of it offhand, yes.

27 451 Q. When you were previously giving evidence in relation to

28 this matter, Mr. McGowan, did you make it very clear to

29 the Sole Member that your recollection in relation to

30 the fundraising activities of Mr. Ottiwell and Mr.

1 McGowan were predicated entirely upon Mr. McGowan's
2 evidence?

3 A. I tried to make it as clear as I possibly could, when I
4 was in the witness-box, because it was a very important
5 matter to me, as all matters are when I am in the
6 witness-box. But that - my understanding of it came
7 from Mr. McGowan. I had no personal knowledge of it,
8 and my understanding is obviously incorrect, but that
9 is the situation.

10 452 Q. You gave evidence that you understood it came from
11 various fundraisers, that you had discussed the matter
12 with Mr. McGowan, that Mr. McGowan had given you
13 details in a general way?

14 A. Yes. In a general way.

15 453 Q. In a general way?

16 A. Yes, sorry.

17 454 Q. Sorry, go on?

18 A. No.

19 455 Q. But you did not indicate to the Sole Member, when you
20 were dealing with this previously, that you only ever
21 had one conversation with Mr. McGowan in connection
22 with this fundraising, and it took place immediately
23 prior to the payment of the ú50,000?

24 A. Well, of course there is to contradiction there
25 whatsoever. I gave my understanding of the situation,
26 but most of my understanding of the situation came in
27 relation to Mr. McGowan's evidence here in the
28 witness-box.

29 456 Q. So, was Mr. Ottiwell present when you had that
30 discussion with Mr. McGowan?

1 A. That is my recollection, yes.

2 457 Q. Other than that occasion, did you ever discuss

3 fundraising with Mr. Ottiwell or with Mr. McGowan?

4 A. With Mr. McGowan in - again in the 19 - at the time in

5 1984, when the funds were transferred into the account,

6 the 60,000.

7 458 Q. Yes. Did you have any curiosity at all about the size

8 of the amount you were getting, Mr. Burke?

9 A. No, I was just grateful to get it.

10 459 Q. Or the fact that the following year you got ú60,000;

11 did you have any curiosity about that?

12 A. No, I was just grateful that I was getting it. I had

13 absolute confidence in friends that - of going back to

14 the '60s, that what they were doing was to assist me in

15 every way they possibly could in my political career,

16 and that's the scenario in it. As I have said to you

17 many times, I am sure you don't want me to say it

18 again, I think I probably should, that the funds are

19 still there, most of them.

20 460 Q. And when you were bringing all this money over and back

21 from Jersey to Bruton Street, and Bruton Street to

22 Dublin, and lodging it in your safe, and all of the

23 transactions that you described to Mr. Hanratty and the

24 Sole Member previously, on no occasion, when you were

25 doing that, did you get Exchange Control permission?

26 A. That's - I have gone through that with Mr. Hanratty

27 before.

28 461 Q. But it wasn't a situation, was it, Mr. Burke that you

29 weren't aware of the requirement?

30 A. Oh, no. I would have been aware of it, all right, yes.

1 462 Q. And you had previously --

2 A. When I was bringing money back from England, it wasn't
3 a question of bringing money out of - I was incorrect
4 in my recollection in relation to the 15,000, bringing
5 it back and bringing it out to Jersey. That was
6 incorrect, in recollection, and I clarified that for
7 the Chairman.

8 .
9 As far as the rest of the funds, it would have been
10 bringing funds which I had understood had been raised
11 over abroad, bringing it into Ireland.

12 463 Q. Would you have needed Exchange Control permission, for
13 example, to open the bank account in Manchester?

14 A. I would --

15 .

16 MR. WALSH: Sorry --

17 .

18 CHAIRMAN: I beg your pardon. Now, Ms. Dillon --

19 .

20 MR. WALSH: The point I want to make, whether Exchange
21 Control regulations were in force, what the effect of
22 them are as regards these transactions, these are
23 matters outside the ambit of your inquiry.

24 .

25 There are certain privileges and immunities that attach
26 to witnesses, Sir. I just say that we have gone over
27 this before. There is no point in going over it again.

28 .

29 CHAIRMAN: I note what you are saying.

30 .

1 MR. WALSH: Yes.

2 .

3 464 Q. MS. DILLON: If we could have page 5396, please. This

4 is an application you made, Mr. Burke, for Exchange

5 Control permission in November, 1972. It is on screen

6 in front of you. You were travelling to Florida on

7 some property deal?

8 A. I was traveling to Florida. If you look at the date,

9 you will see it is the 29th of November, 1972, which is

10 the day I was married and I heading off to Florida and

11 to Mexico on my honeymoon.

12 465 Q. However, the transaction or the purpose of the visit is

13 described as a property deal in Miami, Florida,

14 "business discussions", etc.. "Applicant is estate

15 agent. Palm Beach Investment Properties Inc., 1440

16 79th Street, Causeway, Miami, Florida."

17 A. So that I could bring \$1,000 cash with me at the time.

18 And I had to get the thousand pounds, I got the

19 thousand pounds to bring it, approval to bring it out

20 of the country in 1972, and bring it with me in my back

21 pocket to spend on my honeymoon, when I got married on

22 the 29th of November, 1972. It was very well spent,

23 may I say, she is still with me.

24 466 Q. What this document establishes, Mr. Burke, that you

25 were certainly well aware of the requirements in

26 relation to Exchange Control?

27 A. Yes.

28 467 Q. Isn't that right?

29 A. I am sure I will be discussing that in another place at

30 another time with other people, and that --

- 1 .
- 2 CHAIRMAN: That aspect, I don't want to either hear or
3 go into it. It has nothing to do with me.
- 4 A. That is precisely it.
- 5 .
- 6 468 Q. MS. DILLON: And a similar requirement arose in
7 connection with the Manchester account, and I think,
8 subject to correction from Mr. Walsh, the account in
9 Northern Ireland?
- 10 A. I don't know that, but I am sure we will get to it.
- 11 469 Q. You do not know whether you needed Exchange Control
12 permission to open the bank account in Manchester,
13 Mr. Burke, is that the position?
- 14 A. I am sure I did, but I am not one hundred percent sure,
15 and I am not going to answer you off the top of the
16 head here. As I said, the Chairman has already told me
17 that he doesn't want it gone into here. I am not going
18 to go into it here.
- 19 470 Q. Just in relation to the point you made about this
20 transaction being for your honeymoon, Mr. Burke. Item
21 No. 7, on that document that is on screen, does not
22 mention holiday of any description. This makes the
23 application to the Central Bank a business application,
24 isn't that right?
- 25 A. It was a way of getting the approval to take the cash
26 out of the country. .
- 27 471 Q. You told a lie, Mr. Burke, on an official document?
- 28 A. Well, you see, I might also have had occasion to look
29 into a company that was there, but I didn't, as it
30 turns out. But I see a company mentioned there, I have

1 no knowledge of it, some Investments Property Limited
2 Incorporated. I have no knowledge of the company. But
3 the - I could have been also looking in there when I
4 was on the honeymoon. I didn't, as it turned out.

5 472 Q. It is a small thing, Mr. Burke, a very small thing.

6 A. Well, I am glad you said it because -

7 473 Q. But your evidence to date - if could I finish it. It
8 is a small thing, but indicative of bigger things,
9 Mr. Burke. It is a small thing --

10 .

11 MR. WALSH: Sorry, Sir.

12 .

13 MS. DILLON: I withdraw that comment. It is a comment,
14 I withdraw it.

15 .

16 CHAIRMAN: Withdrawn.

17 .

18 MS. DILLON: Withdrawn.

19 .

20 MR. WALSH: Sorry, before she --

21 .

22 MS. DILLON: She, really Mr. Walsh --

23 .

24 MR. WALSH: -- Ms. Dillon continues. This document has
25 been explained, Sir, and it has absolutely nothing to
26 do with your Terms of Reference. I think we should
27 pass from it.

28 .

29 CHAIRMAN: At this point in time, I am going to take a
30 short break for about seven or eight minutes. Thank

1 you.

2 .

3 MS. DILLON: May it please you, Sir.

4 .

5 THE TRIBUNAL THEN ADJOURNED FOR A SHORT RECESS AND

6 RESUMED AGAIN AS FOLLOWS.

7 .

8 A. Apologies Chairman.

9 .

10 474 Q. MS. DILLON: If we could have Document 5396 again,

11 please.

12 .

13 Where did you get the address of the property company

14 or business that is identified in that application for

15 Exchange Control facilities?

16 A. I have no idea when I saw it. We got this last night

17 from you for the first time, which was the first time I

18 saw it, and we got it amongst documentation that

19 arrived in my solicitor's office at a quarter to five

20 last night, the first time that I ever saw it. And I

21 have no idea, but the only thing, and I put it to you,

22 Mr. Chairman, as no stronger than a suggestion, as an

23 idea, but I am not one hundred percent sure of it, if

24 you look at the previous approval for 1971, it was to

25 go to a Junior Chambers of Commerce Congress.

26 .

27 It was actually held in Hawaii, and undoubtedly there

28 would have been some networking going on there, and I

29 may have got the business card of some guy who said,

30 "If you are in the Miami area, call in." That is the

1 way Junior Chamber works. That would be the only
2 suggestion I have in relation to it.

3 .

4 Or I could have got it from the bank, but my
5 recollection is that that, not a recollection, but my
6 best guesstimate is, for what it is worth, is that it
7 probably came from the previous year, some business
8 cards that you would pick up as would you go to these
9 Junior Chamber things.

10 475 Q. Yes. If we scroll down through that document. Just
11 the next couple of lines, you will see that you have
12 signed the document?

13 A. I would have, yes.

14 476 Q. Presumably, the information contained in the document
15 was information that came from you?

16 A. It would have been, I assume, yes. It would have been,
17 yes. It would have been done together with the bank.
18 The bank would have helped me with this in relation to
19 filling in the form. It is not my writing that is on
20 it, other than the signature. It would have been done
21 with me and the bank manager.

22 477 Q. And in so far as it describes that the purpose of your
23 visit is this property deal in Miami, am I correct in
24 understanding that there was no such property deal and
25 you did not invest in property?

26 A. No, I didn't invest in property. I told you I was on
27 my honeymoon. If you look at the date, the date of
28 departure, 29th of November '72.

29 478 Q. Why didn't you disclose that, if that was the purpose
30 of the trip, Mr. Burke? Why didn't your application to

1 the Exchange Control, to the Central Bank reveal the
2 true purpose of your visit?

3 A. It was probably - that is a situation where I was
4 getting the ú1,000 approval, and I was going to come
5 with an excuse for, the reason for getting it, and I
6 probably had intended, also, to go in and see the
7 individuals concerned in that company, when I was out
8 there, and the networking basis that I mentioned to you
9 earlier. But it is history, and it is ú1,000 that I
10 brought on my honeymoon. I will put both hands up and
11 say "guilty". As far as these Exchange Control
12 documents are concerned generally, you asked me earlier
13 on in relation to the banks, I did all of those bank
14 dealings through the bank in Whitehall, through the
15 Bank of Ireland, and filled in the documentation in
16 relation to the accounts, etc., and the applications
17 for the accounts. And they would have been done by the
18 bank. And assuming Exchange Control documentation was
19 necessary, the bank would have filled in Exchange
20 Control documentation, because they are a reputable
21 organisation and wouldn't have been seen to be doing
22 anything improper.

23 479 Q. You would have no reason to expect or believe,
24 Mr. Burke, I suggest to you, in November of 1972, that
25 if you had disclosed to the Central Bank that the true
26 purpose of your visit to the United States was your
27 honeymoon, that you would have been refused Exchange
28 Control permission?

29 A. I probably would have got the money.

30 480 Q. Because the - yes. Because the previous year, when you

1 obtained Exchange Control facilities for attending at a
2 World Junior Chamber of Commerce Congress, that
3 permission was also forthcoming, isn't that right?

4 A. Yes, I got that document from you last night as well.
5 That - I got the approval for it, yes.

6 481 Q. So the following year, in 1972, when you were again
7 applying for Exchange Control in connection with this
8 trip to America, you would have had no reason to think,
9 if you disclosed the true nature of your trip, you
10 would have been refused Exchange Control facilities?

11 A. True, but I may have had in my mind to call in and see
12 these people as well. I would have mentioned that to
13 the bank manager. He could have - we are in the realm
14 of "could have" and "maybe" at that stage. That is not
15 evidence under oath, except to say to you that it
16 possibly - it is possible that I mentioned to them that
17 I knew people out there or had a card from somebody
18 else out there and that I might call in to them. That
19 could have been put down as the reason. I don't know.
20 From 1972 to 2001, 29 years ago, I have no idea.

21 482 Q. But it means, Mr. Burke, that you lied on the Document
22 5396?

23 A. I didn't lie on the document.

24 .

25 MR. WALSH: Sorry, Sir, that is Ms. Dillon again
26 exercising her judgement.

27 A. Where are you going?

28 .

29 MR. WALSH: Her judgement or comment is irrelevant.

30 .

1 CHAIRMAN: She put it, "Did you lie on that document?"

2 The answer she got back is "I didn't." Now, let's
3 leave it like that.

4 .

5 MR. WALSH: And this, and anything that goes with this,
6 what he did or didn't do on his honeymoon, is
7 irrelevant.

8 A. I was asked earlier about, the account in Manchester
9 and the account in Belfast needed Exchange Controls.
10 Both the documentation on both of those accounts were
11 done on my behalf in the Bank of Ireland, Whitehall, a
12 reputable organisation the Bank of Ireland. And if
13 Exchange Controls were required, those documents would
14 have been put in front of me. I would have filled in
15 whatever was required. Maybe Exchange Controls were
16 required, I don't know at this stage.

17 .

18 483 Q. MS. DILLON: The true nature of your trip in November
19 of 1972 was, as you have described here today, in your
20 sworn testimony - your sworn testimony is that you went
21 on your honeymoon, isn't that right?

22 A. I went on my honeymoon.

23 484 Q. You did not disclose that to the Central Bank, for
24 whatever reason, is that right?

25 A. Apparently I didn't.

26 485 Q. Yes?

27 A. But - I am sure there is a serious point in here
28 somewhere, but I just - it goes over my head.

29 486 Q. Yes. Well, I suggest to you, Mr. Burke, that if you
30 are prepared to lie about little things, you might

1 equally be prepared to lie about big things?

2 A. Wait a second. That, Mr. Chairman, I find offensive.

3 I have already explained to you how that could have
4 been put down, how the name - the property, the
5 property company, it linked it back in my trying to be
6 of assistance to you. I find that objectionable.

7 .

8 CHAIRMAN: Now, Mr. Burke, I accept that the exchange
9 was inappropriate, and I hope it won't occur again.

10 A. Thank you, Chairman.

11 .

12 MS. DILLON: Yes, Sir. Mr. Burke asked me, what was
13 the point. I was only answering his question, Sir.

14 .

15 CHAIRMAN: Let's conduct this matter --

16 .

17 487 Q. MS. DILLON: Mr. Burke, you made representations to the
18 Revenue Commissioners on behalf of company called
19 Bardon Estates?

20 A. I have seen that correspondence, yes.

21 488 Q. And the purpose of your representations was what,
22 exactly?

23 A. Well, if I can just - bear with me a moment while I
24 bring up the file.

25 .

26 The purpose of the representations are as set out in a
27 letter, page 1631, that I received from the Chairman of
28 the Revenue Commissioners, PF Curran, addressed to me
29 on the 7th of April, 1979. If I may quote to you,
30 Chairman, it says: "Bardon Estates, Elm Grove

1 Developments Limited.

2 .

3 You spoke to me recently on the telephone regarding the
4 above cases. You contrasted the fact that the
5 Inspector was in a position to reach a settlement in
6 the Elmgrove case, whereas a settlement was apparently
7 impossible in the Bardon case, and you wondered why a
8 settlement could not also be concluded by the Inspector
9 concerned in the Bardon case.

10 .

11 The reason that this is not possible is because of
12 fundamental differences in the legal position in the
13 two cases."

14 .

15 We will read the whole letter in its entirety, Mr.
16 Burke. We will just stop it there for the moment.
17 Page 1631, please.

18 .

19 CHAIRMAN: Who is going to read the letter --

20 .

21 MS. DILLON: We will deal with the first paragraph,
22 Sir, if that is all right.

23 .

24 CHAIRMAN: I beg your pardon.

25 .

26 489 Q. MS. DILLON: You telephoned Mr. Curran, the Chairman of
27 the Revenue Commissioners, in connection with this
28 matter?

29 A. Yes. As the first paragraph of the letter says, I
30 contacted Mr. Curran at the request of Mr. Brennan,

1 with the request of Tom Brennan who had settled,
2 apparently - I have no recollection of it from 1989,
3 until I saw the correspondence, that they, Mr. Brennan
4 and his companies, had made a settlement with Revenue
5 in one case, and they were keen to settle their affairs
6 with Revenue in relation to a company called Bardon.

7 .
8 And I inquired from the Chairman of the Revenue
9 Commissioners as to no more, just wondered why a
10 settlement could not be concluded by the Inspector
11 concerned in the Bardon case.

12 .
13 And the Chairman of the Revenue Commissioners gave me a
14 detailed letter as to some differences between one case
15 and an outstanding court decision in relation to
16 another, which we can go down through later. But I was
17 merely inquiring - the companies had settled their
18 affairs, and can they continue to settle the rest of
19 their affairs? No favours, no nothing else. Just
20 merely, if they can't, what's the reason for it?

21 .
22 And the Chairman of the Revenue Commissioners, very
23 courteously and very kindly, set out for me the
24 situation in that case.

25 490 Q. Yes. The question I put to you, Mr. Burke, was did
26 you telephone Mr. Curran? And the answer to that would
27 have yielded a "yes" or "no." However, what I want to
28 know from you is that prior to making the telephone
29 call to Mr. Curran, at whose instigation did you make
30 it?

1 A. It would have been at a request from Mr. Brennan.

2 491 Q. Did you meet Mr. Brennan?

3 A. Oh, sure I met Tom all the time. I would - we have
4 been friends from the '60s. I would meet Tom on a
5 regular basis. We would have lunch together, we would
6 have chats together, and I met him on - and he -
7 obviously, I don't recall it. It is a way back in '89,
8 this specific representation, but he obviously
9 mentioned to me the facts of the situation, and I gave
10 a tingle to the Chairman of the Revenue Commissioners.

11 492 Q. You must have met Mr. Brennan, and Mr. Brennan must
12 have briefed you on this particular problem before you
13 made the telephone call, is that correct?

14 A. He would have, yes, on the basis that - from -
15 apparently from the letter, that they paid a set -
16 settled in relation to Elmgrove. There is a reference
17 to Oakpark down here further on, that there was, in the
18 cases of those two companies, there was agreements with
19 Revenue, but they also wanted to settle in relation to
20 Bardon. But it wasn't possible because there was some
21 technical - there was some legal outstanding issue
22 which the Chairman of Revenue explained to me in his
23 letter, and that was it. I passed that letter on to
24 Mr. Brennan, as I would do for any constituent.

25 493 Q. You were the Minister for Industry and Commerce at this
26 time?

27 A. Yes, but I was a public representative first. I
28 represent the public. And that's how you become
29 Minister, as a public representative. There is nothing
30 unusual about that whatsoever.

1 494 Q. Have you made many similar such representations to the

2 Revenue Commissioners, so, Mr. Burke?

3 A. I would make representations on behalf of constituents

4 and on behalf of acquaintances, and people from all

5 over the country would have come to me over the years,

6 including to Revenue, there would be correspondence

7 from me there in Revenue on a regular basis, I am sure,

8 as there is from everyone of the very hard-working 166

9 guys and ladies that are working down in Leinster House

10 on behalf of their constituents.

11 495 Q. Yes, Mr. Burke. And if you just listen to the

12 question, you might like to answer it this time. Would

13 you have many such similar representations to the

14 Revenue Commissioners?

15 A. As to whether I rang the Chairman of the Revenue

16 Commissioners, I can't be precise, but as to making

17 representations to Revenue on Revenue matters, that

18 would be something that would arise in the day-to-day

19 of a politician all of the time, not every day, but

20 quite regularly you would have people in trouble with

21 Revenue, and they would say to you, "Look, can you

22 write to Revenue about this or write to Revenue about

23 that." That would happen all the time.

24 496 Q. What you are discussing there, what you appear to be

25 describing there, Mr. Burke, you may correct me if you

26 wish, are representations made to the Revenue?

27 A. Sorry?

28 497 Q. To the Revenue, as part of your normal looking after

29 your constituents?

30 A. To the Revenue Commissioners, yes. That is who I was

1 in touch with on this behalf, on this occasion as well.

2 498 Q. You were in touch with Mr. Curran, who was the Chairman
3 of the Revenue Commissioners, the most senior member of
4 the Revenue Commissioners, isn't that right?

5 A. Yes.

6 499 Q. You weren't in touch with the general body of the
7 Revenue about this particular problem?

8 A. No, I spoke to Mr. Curran apparently on the telephone.

9 500 Q. Mr. Curran was at that time the Chairman of the Revenue
10 Commissioners?

11 A. Yes. And he wrote back to me, yes.

12 501 Q. He would then have been the most senior person, isn't
13 that right?

14 A. Yes, of course.

15 502 Q. Yes. So when I asked you, was it your normal business
16 to - or did you normally make representations to the
17 Revenue Commissioners, I want you to be clear in your
18 answer, that when you say you made representations to
19 the Revenue, whether they were to the Revenue or
20 whether they were to the Revenue Commissioners, or
21 people such as Mr. Curran, the then Chairman?

22 A. The correspondence would be - I can't be absolutely
23 accurate on every single letter that went out of my
24 office over the years. It could sometimes have gone to
25 the Chairman of the Revenue, it might have gone to the
26 particular inspector who would be dealing with it, or
27 it could have gone to the Minister for Finance of the
28 day to ask him to pass on to Revenue a general Revenue
29 query. So that would be the situation.

30 503 Q. This wasn't a general Revenue query, Mr. Burke.

1 A. Oh, no. It was somebody wanting to pay taxes to the
2 State, and who had settled two cases, apparently, two
3 companies, the tax liability of them, and was wanting
4 to pay the tax liability that they felt they had on the
5 third case. And I have great respect for the integrity
6 of the Revenue Commissioners and the Chairman of the
7 Revenue Commissioners, who quite obviously, in the
8 reply that he gave to me, indicated that he saw nothing
9 even the slightest bit improper in the query that I
10 made, and responded to me in a most courteous way and
11 said, "Look, contrast - you asked me about it, and you
12 contrasted the fact that the Inspector was in a
13 position to reach a settlement in the Elmgrove case,
14 whereas a settlement was apparently impossible in the
15 Bardon case, and you wondered why a settlement could
16 not also be concluded by the Inspector concerned in the
17 Bardon case." I merely wondered as to why such a -
18 what was happening.
19 .
20 He then, very kindly and very courteously, set out that
21 the reason that it is not possible is because of
22 fundamental differences in the legal position of the
23 two cases. He then elaborated on that in a most
24 courteous way, and quite obviously feeling under no
25 pressure from any politician, and knowing Revenue down
26 through the years and dealing with them down through
27 the years, they don't respond to pressure. They will
28 respond to queries and they will respond to
29 clarifications in relation to items.
30 504 Q. This is not a letter to the general body of the

1 Revenue, Mr. Burke.

2 A. No, it wasn't. It was a phone call to the Chairman of
3 the Revenue.

4 505 Q. Yes. This is not an inquiry directed to the Inspector,
5 who was handling the Bardon Estates' case or the Elm
6 Grove Developments Limited's case?

7 A. That is true.

8 506 Q. Why did you elect, on receipt of Mr. Brennan's request
9 for assistance, to go straight to the top, as it were?

10 A. I was looking for clarification in relation to a matter
11 of significance to a friend, and I asked for a
12 clarification from the man who would be able to give me
13 the clarification, that was the Chairman himself.

14 507 Q. Was it your normal situation, when you had a query from
15 a constituent, or a query on behalf of a friend, to do
16 with the Revenue, that you would deal directly with the
17 Chairman of the Revenue Commissioners?

18 A. I have already outlined to you the manner which I would
19 normally deal with these things.

20 508 Q. This would not be a normal contact, to deal directly
21 with the Chairman of the Revenue Commissioners, Mr.
22 Burke?

23 A. I would not normally have picked up the phone in
24 relation to it. I was asked specifically by Mr.
25 Brennan about this issue. He wanted to pay his taxes,
26 and in - the manner which he had paid to some, he had
27 paid them in a number of companies, and his accountants
28 were saying "Can we not do it the same way?" He raised
29 it with me. I raised it with the Chairman of the
30 Revenue.

1 509 Q. So that when Mr. Brennan came to you with his problem,
2 in connection with Bardon Estates, your response to his
3 request for assistance was to deal directly with the
4 Chairman of the Revenue Commissioners, which was not
5 something you normally did, as I understand what you
6 are saying?

7 A. It wouldn't be - I wouldn't normally deal with it on
8 the phone. It would be dealt with in correspondence,
9 but Tom would have been a friend going back to the '60s
10 and that's it.

11 510 Q. Is it the position --

12 A. I mean, there is nothing unusual about politicians
13 making representations in relation to people. It
14 happens every day. As I say, there is 166 of them, and
15 I have no doubt today, working day and night down there
16 making representations in Leinster House, making
17 representations with the General Election coming up,
18 they will be beavering away down there, writing to
19 everybody they can think of to write of on behalf of
20 their constituents.

21 511 Q. Yes, they write to them on behalf of their
22 constituents.

23 A. And ringing them and making representations to them and
24 ringing in delegations on behalf of their constituents.

25 512 Q. On this particular case, Mr. Burke, on receipt of the
26 request for assistance from Mr. Brennan, did you
27 telephone immediately Mr. Curran?

28 A. I have no recollection of even the call. It was - when
29 I saw the correspondence it was - I was reminded of the
30 details of it. But I have no recollection of whether

1 it was immediately or weeks later, or when it happened.

2 But I obviously spoke to him. It refers to it there.

3 .

4 When I got the letter back from Mr. Curran, I obviously

5 passed it on to Mr. Brennan, as I would do with every

6 constituent or everybody, every member of the public

7 who comes to me, or came to me when I was in public

8 life. I would pass it on to them. I - that's it, you

9 know.

10 513 Q. It appears from the opening paragraph of that letter,

11 Mr. Burke, that you were in a position in your

12 telephone conversation to contrast the various or the

13 two approaches that had been made by the Revenue, one

14 in the Elmgrove case and the other in the Bardon case?

15 A. I obviously - the letter says, "You contrasted the fact

16 that the Inspector was in a position to reach

17 settlement in the Elmgrove case, whereas settlement was

18 apparently impossible in the Bardon case, and you

19 wondered why a settlement could not also be concluded

20 by the Inspector concerned in the Bardon case."

21 .

22 Obviously, at the time, way back in '89, the details

23 would have been mentioned to me in a general way, and

24 in a general way I would have raised them with the

25 Chairman, just as he is answering me in his letter

26 there. I really would suggest that the Chairman of the

27 Revenue Commissioners is not a man that you can put

28 pressure on, no matter who the holder of that office

29 is. It is quite obvious from the tone of that letter

30 that he didn't interpret my phone call as being

1 anything other than a query.

2 514 Q. Yes. The Chairman of the Revenue Commissioners then

3 goes on throughout the body of the letter to set out in

4 detail the reason why he felt that the two, or that he

5 was of the opinion that the two cases should be treated

6 differently, in effect?

7 A. Well, I think probably, for accuracy of the record of

8 the Tribunal, it might do no harm if we were to read

9 for the - that is the end of the first paragraph I have

10 got to. The letter goes on --

11 515 Q. If we just leave it there for the moment. Do you agree

12 that in general what the Chairman of the Revenue

13 Commissioners did in the rest of the letter was to set

14 out for you the reasons why a settlement could not be

15 concluded or dealt with by the Inspector in the Bardon

16 case?

17 A. He goes into the - goes into the other cases and the

18 outstanding court case, and those matters are dealt

19 with, and I gather the - from the transcript of the

20 Tribunal, that these - when this matter was raised with

21 Mr. Brennan, that he indicated that they, about 18

22 months or two years later, that they came to a

23 settlement figure with the Revenue, so that the - maybe

24 the court case has been sorted out at that stage, I

25 don't know. But it was about 18 months or two years

26 later, so my phone call was not to elicit any favours,

27 it was to elicit information. That is all it was.

28 516 Q. Your concern was, as is set out in the first paragraph,

29 the information you were seeking was why a settlement

30 could not be concluded by the Inspector concerned in

1 the Bardon case in the same way as had happened in the
2 Elmgrove case?

3 A. They had paid their taxes in the other case. I do
4 think, Mr. Chairman, for accuracy, it would be as well
5 if I read the rest of this letter. It goes on into the
6 second paragraph, "In the cases of Elmgrove" -

7 517 Q. Mr. Burke, I am not finished with the first paragraph.
8 If you pause there for the moment.

9 A. You had gone on to the rest of the letter earlier on,
10 that's why I think - and you quoted - you didn't quote,
11 you asked me about --

12 .

13 CHAIRMAN: Ms. Dillon has --

14 A. You asked me about the content of the letter.

15 .

16 CHAIRMAN: Ms. Dillon said that she has not finished
17 with the first paragraph.

18 .

19 518 Q. MS. DILLON: The last question I had asked you, Mr.

20 Burke, related to the first paragraph and that your
21 concern was to satisfy yourself or to seek information
22 as to why a settlement could not be reached in the
23 Elmgrove case in the same way as had been done in the
24 Bardon case. That is the last question I asked you.

25 It was in connection with the first paragraph. You had
26 seemed to suggest that I had gone on to deal with the
27 rest of the letter. Just so that the record can be
28 accurate in relation to that.

29 .

30 Now, is it the position, sorry, that you only spoke

1 once to Mr. Curran in connection with this matter?

2 A. That seems to be the record, yes.

3 519 Q. Did you know who the Inspector was dealing with the
4 case?

5 A. I wouldn't have a clue, no.

6 520 Q. Did Mr. Curran, Mr. Brennan not tell you?

7 A. I wouldn't have a recollection in the world of it at
8 this stage.

9 521 Q. If Mr. Brennan had told you who the Inspector was,
10 would you have directed your query towards him?

11 A. Well, they are all hypothetical questions, I have no
12 idea, Mr. Chairman, at this distance of time.

13 522 Q. Well, presumably, if you had known, Mr. Burke, who the
14 Inspector was that was dealing with the case, there
15 would be no need for you to write to the Chairman of
16 the Revenue Commissioners?

17 A. To ring the Chairman and have a word with him?

18 523 Q. Yes.

19 A. I have no idea at this distance of time. As I say, I
20 didn't even have a recollection of it until I saw the
21 correspondence here. I would deal, Mr. Chairman, with
22 literally, when I was a Minister and a Deputy,
23 thousands and thousands and thousands, tens of
24 thousands of pieces of correspondence in a year. I
25 have no recollection of individual cases.

26 524 Q. But in the normal course of events, I had understood
27 you to say that you had often dealt with inspectors in
28 the Revenue?

29 A. We would write to them. You would write to - or write
30 to the Minister for Finance and ask him to contact

1 Revenue in relation to things. These things go on all
2 the time as public reps.

3 525 Q. Yes. But it seems clear from the first paragraph of
4 that letter that you knew there was an Inspector
5 involved in the case?

6 A. Sure, there is an Inspector involved in everybody's
7 case.

8 526 Q. But you didn't direct your inquiry towards the
9 Inspector who was looking after the Bardon Estates or
10 indeed the Elmgrove case, you directed your inquiry to
11 the Chairman of the Revenue Commissioners?

12 A. Well, in this particular case I asked the Chairman of
13 the Revenue Commissioners, a man who would absolutely
14 be immune from pressure from anybody, a Minister,
15 Deputy Councillor, individual, human being. He is the
16 Chairman of the Revenue Commissioners, and nobody has
17 ever questioned the integrity of the Chairman of the
18 Revenue Commissioners, no matter who the office holder
19 was at any one time.

20 .
21 It is quite clear from the letter, if it is read, that
22 is, that all I was wondering was why a settlement could
23 not be arrived at in a similar manner on one company,
24 as had been arrived at on other companies.

25 .
26 I wasn't asking him to do any favours. I wasn't asking
27 him to do anything improper, because if there was a
28 suggestion of that, there is nobody faster than a
29 Chairman of the Revenue Commissioners to put you in
30 your place. And what happened was that he outlined the

1 history of the situation for me, which I then passed on
2 to Mr. Brennan.

3 527 Q. Do you want to read the rest of the letter, Mr. Burke?

4 A. I suppose it is no harm. It is not hugely important.

5 It is just for the record, seeing as we have gone and
6 have been discussing one paragraph of it.

7 .

8 "In the cases of Elmgrove and its sister company
9 Oakpark Developments Limited several elaborate schemes
10 of tax avoidance were employed for the purposes of
11 reducing the tax liabilities of those two companies and
12 of their directors. The outcome of the issues raised
13 by these schemes, if they were pursued through the full
14 legal process, was uncertain. Negotiations were opened
15 with the parties concerned which resulted in an initial
16 offer of about ú700,000, which was later raised and
17 agreed at ú1.4 million.

18 .

19 The uncertainties which surrounded the Elmgrove case
20 are not present in the Bardon case. This case, which
21 is now at appeal before the Appeal Commissioners, is on
22 all fours with two other avoidance cases which have
23 been decided in the Revenue's favour by the Supreme
24 Court. Furthermore, there are other avoidance cases
25 awaiting settlement in which the principles upheld by
26 the Supreme Court in the two cases referred to will be
27 at issue. On the basis of the legal advice available
28 to us, there are no ground for assuming that the Bardon
29 case and the other similar undecided cases will not be
30 decided in favour of the Revenue. For this reason the

1 Revenue is precluded from taking the line adopted in
2 the Elmgrove case.

3 .

4 In conclusion, I should mention that on the 30th of
5 September, 1988, the terminal date of the special
6 incentive introduced in last year's budget, an approach
7 to the Commissioners was made by representatives of
8 Bardon with a view to securing a substantial reduction
9 in its tax liability of about two and a half million
10 pounds. They were informed that the Commissioners had
11 been advised that there was no legal basis for writing
12 off any part of the tax liability on the company's
13 profits. They were also appraised of the manner in
14 which any liability to interest on tax still
15 outstanding could be minimised or eliminated, but they
16 did not evince any desire to go down that route.

17 .

18 Yours sincerely, PF Curran, Chairman." And it is
19 addressed to myself as Minister for Industry and
20 Commerce.

21 528 Q. Why didn't you send your query in, in writing,
22 Mr. Burke? Why didn't you send your query in, in
23 writing to the Chairman?

24 A. Well, sometimes they would be done in writing.
25 Sometimes, as I have told you, sometimes things are
26 done on the telephone. On this occasion I chose to do
27 it on the telephone, and ask him in a general way the
28 situation. It is not a question of asking him to do
29 anything improper. It is a question of asking him for
30 information.

1 529 Q. You had a number of meetings with Mr. Brennan, in
2 particular, throughout 1985?

3 A. Yes. I would have met him regularly at different
4 times, not just in 1985, but right down through the
5 years since we became friends in the late '60s. I
6 mean, we were friends.

7 530 Q. And you are familiar, Mr. Burke, with an attendance, or
8 a transcript of a telephone conversation between
9 Mr. McGowan and Mr. Russell, dated the 18th of July,
10 1985?

11 A. I am aware of it from the documentation provided by the
12 Tribunal, yes.

13 531 Q. At page 977, please.

14 A. Sorry, what one is it again?

15 532 Q. The document is on screen.

16 A. Just one second now. It is on the screen, yes. I
17 haven't got it with me, but, yes.

18 533 Q. We will go down through it slowly, Mr. Burke, so you
19 can see it.

20 .

21 The references to you are all on page 977.

22 A. Do you have a hard copy of it there? It would be
23 handier for me. If you wouldn't mind, please.

24 534 Q. This is only the first page of an attendance that runs
25 over a number of pages, Mr. Burke. But we will give
26 you the first page. I don't think anything turns on
27 the balance of it, but if you wish to have the balance
28 of the attendance we will give you that also.

29 (Document handed to witness)?

30 A. Thank you very much. Yes.

1 535 Q. Mr. Philip Russell, solicitor, has given evidence that
2 at the time there was litigation between Messrs.
3 Brennan and McGowan and Russell, and in course of that
4 litigation, and because, apparently, as I understand
5 it, he was concerned about his father's position, he
6 recorded a number of telephone conversations that took
7 place between Mr. McGowan and Mr. George A Russell, who
8 is the "GAR" referred to in the attendance. And "PJR"
9 is, apparently, Mr. Philip Russell. And JB McG is
10 Mr. Joseph McGowan.

11 A. Okay.

12 536 Q. In the course of this particular attendance on the 18th
13 of July, 1985, Mr. Russell has recorded Mr. McGowan as
14 saying - in fact, we can read it from the start.
15 .
16 Mr. McGowan says: "Now you will not believe this."
17 Mr. Russell Junior says: "Oh, he has not got it in his
18 account."
19 Mr. McGowan says: "He is getting it on Friday."
20 Mr. George Russell says: "It is not on its way even."
21 Mr. McGowan then says: "Yes, it is on its way. I was
22 talking to - McGuigan myself, Mr. Purcells's agent.
23 However, as soon as that comes into his account we are
24 going over to Ted O'Driscoll. I wonder if there is any
25 way we can get the thing adjourned, or any way at all
26 for Monday, until we, because we have a sale going
27 through and you have been talking to Stewart Harrington
28 yourself. There is no question, everybody is behind
29 this sale, Ray Burke, the whole works."

30 .

1 Then, if you move down through the attendance, just
2 slightly below halfway, where Mr. PJ Russell says:
3 "Did you see him?" And Mr. McGowan says: "He didn't
4 see me, no. His secretary said he was acting for the
5 bank and could not see me, and I should talk to Reid
6 and McNabb. Tom has gone out to Ray Burke, Sandyford,
7 and is probably there at the moment. We will not have
8 the letter from the County Council until McClure comes
9 back from his holidays. "

10 .

11 That reference to "McClure" should, in fact, be a
12 reference to Mr. McClune, who was the valuer employed
13 by the Corporation.

14 .

15 Mr. Brennan, in his evidence, in connection with this
16 document, said that he never mentioned the lands at
17 Sandyford to you. And Mr. McGowan, in his evidence,
18 said that he had approached you to see if you could
19 find out were Dun Laoghaire Council seriously
20 interested in purchasing the land, and that you had
21 gone back to him and said that the County Council was
22 being offered half the land in Dublin.

23 .

24 Did you have such a conversation with Mr. McGowan?

25 A. I have no recollection in the world of having such a
26 conversation with Mr. McGowan. I seriously doubt such
27 a conversation ever took place. I am reassured in that
28 by the evidence of Mr. Brennan, when he makes it
29 absolutely clear that there was no such a thing as him
30 having - to quote, "Tom has gone out to Ray Burke", and

1 there would be no reason that such a thing could
2 happen, because I was never a member of Dun Laoghaire
3 Corporation.

4 .

5 And as far as the documentation on this is concerned,
6 this is the only documentation I have ever seen in
7 relation to this. I am sure if there was other
8 documentation I would have been shown it by now. But I
9 have no - absolutely no recollection of Mr. McGowan
10 ever speaking to me. And I seriously doubt he ever - I
11 very seriously doubt he ever mentioned it.

12 537 Q. Yes. Mr. Walsh, your counsel, when he was
13 cross-examining Mr. McGowan, put it to Mr. McGowan that
14 you had no recollection of meeting Mr. McGowan or
15 having the discussion that is identified as having
16 taken place on the document that is on screen?

17 A. And again I am convinced of this, because as I
18 understand it, no such sale ever took place. And I was
19 never a member of Dun Laoghaire Corporation. So I
20 wouldn't have been, I would have had no reason to - and
21 to the best of my knowledge I never made
22 representations to Dun Laoghaire Corporation about any
23 issue in my life, so that would be the situation on it.

24 538 Q. Yes.

25 A. And as Mr. Brennan, in his evidence, made it clear,
26 that he had no interest in the land involved being
27 sold, if I recall, I can't give you the exact
28 quotation, but that would be what I recall from reading
29 the transcripts, would be the thrust of his evidence.

30 539 Q. Mr. Brennan was of the view that he didn't wish to sell

1 the land, unless the monies that they were going to get
2 for the land were sufficient to pay off both banks, the
3 Lombard and Ulster and the Allied Irish. However, what
4 is clear from the documentation, Mr. Burke, is that
5 there were negotiations between Mr. McClune, the valuer
6 that acted both on behalf of Dublin County Council, Dun
7 Laoghaire and Dublin Corporation, and Mr. Stewart
8 Harrington, on behalf of Canio Limited, in connection
9 with the proposed sale of the lands?

10 A. So-be-it.

11 540 Q. While ultimately the lands were not purchased by any
12 Local Authority, what Mr. McGowan said in evidence, was
13 that he had inquired from you as to whether you could
14 find out was there any possibility of the County
15 Council buying the lands?

16 A. Well, I have no recollection of that whatsoever.

17 541 Q. Is it possible --

18 A. And I don't think it happened. I have no reason to
19 think it happened, because it would have been in Dun
20 Laoghaire and I would have nothing - I would have had
21 nothing to do with Dun Laoghaire over the years. So I
22 would know nothing about Dun Laoghaire.

23 .

24 It was an adjoining Local Authority. At one stage some
25 of the members of it were also members of the Dublin
26 County Council, in '85 on. Then they used to have
27 three members, then there were more attached to it,
28 from '85 on.

29 .

30 But the actual workings of Dun Laoghaire, there was a

1 separate corporation in Dun Laoghaire for dealing with
2 Dun Laoghaire matters. So it wouldn't be something
3 that I would have any dealings with.

4 542 Q. There would be no prohibition in principle, and indeed
5 I think we have seen where Dublin Corporation had done
6 it on a number of occasions, where the County Council
7 bought land in the Corporation area, and where the
8 Corporation brought land for forward planning in the
9 County Council area?

10 A. The Corporation had bought land regularly in the County
11 Council area, much to the annoyance of most of the
12 people in the county. But you are talking here about
13 Dun Laoghaire, you specifically mentioned Dun Laoghaire
14 Corporation to me in your initial introduction of this.
15 And I would have had nothing to do with Dun Laoghaire
16 down the years.

17 543 Q. It is also the position that Mr. McClune, who was the
18 valuer, was the valuer not just for Dublin Corporation,
19 but also for the County Council and also for Dun
20 Laoghaire?

21 A. Well, if the Valuers Office would have been the one
22 Valuers Office dealing with the whole lot, maybe, yes.
23 But it is Dun Laoghaire, I would have no reason to deal
24 with Dun Laoghaire.

25 544 Q. Did you ever speak to any valuer, or any official, or
26 any manager in connection with the Sandyford lands?

27 A. I have no knowledge of any such conversations anywhere,
28 and I have seen nothing to suggest that I have ever
29 spoken to anybody in relation to it. And I think I
30 have read most of the documentation that has been

1 provided by the Tribunal.

2 545 Q. In so far as Mr. McGowan is recorded here as saying, on

3 the date of this attendance, on the 18th of July, 1985,

4 that you were "behind the whole works" --

5 A. Behind, meaning in favour, obviously. That is not what

6 he said when he was in the witness-box. He said he

7 asked me in a general way about - would Dun Laoghaire

8 be interested in buying the land? Would I find out if

9 they were interested in buying the land. That never

10 happened.

11 .

12 As far as being "behind the whole works" is concerned,

13 I don't know what he is talking about. He was - at

14 that time, I think, if you read the rest of that

15 document, Mr. McGowan was under considerable pressure

16 from the - from Mr. Russell and his people at that

17 particular time. I think the full minutes of that

18 meeting, if I recall it, from reading it, it was a

19 fairly tense period in everybodys' life.

20 546 Q. And Mr. McGowan was under considerable pressure in

21 relation to this, as indeed was Mr. Brennan; they were

22 in a very difficult position?

23 A. No, I don't - I am talking about Mr. McGowan being

24 under particular pressure at that particular time, as I

25 understand it.

26 547 Q. Yes. And in the course of your meetings in 1985, with

27 Mr. Brennan, did you ever discuss with Mr. Brennan, or

28 did Mr. Brennan ever discuss with you the difficulties

29 in which Mr. Brennan found himself in connection with

30 this problem that had arisen in Sandyford?

1 A. Well, the problem, as I understand it, again from
2 looking at the documentation that has been provided to
3 us, was first of all "no". And secondly, the
4 documentation that he would have, that would have been
5 provided to me, from the Tribunal, I think would
6 indicate that it was to do with title deeds that were
7 given to two different banks, or something like that.
8 It was a complicated court case, that was eventually
9 heard between solicitors and banks, and all sorts of
10 people.

11 .
12 I would have known in a general way that they were
13 having trouble with George Russell. Tom would have
14 mentioned to me, in a general way, that there was. And
15 I would have known it from - mainly from Tom, and
16 probably from Joe, that there was difficulties in
17 relation to titles, etc., and that there were court
18 cases over the years, I can't say specifically in '85,
19 but over the years.

20 548 Q. Between the 10th of May, 1985, and the 1st of July,
21 1985, you met Mr. Tom Brennan on seven occasions, if
22 his diary entries are accurate?

23 A. I would say probably more, because I was in the middle
24 of the Local Election at that stage, and Tom would have
25 been organising workers for myself, canvass teams for
26 me. He would have been organising for adjoining
27 constituencies, to put out workers on the road during
28 that campaign - I probably - if seven is the number
29 that is indicated there, that is fair enough. I would
30 have said that I would have probably met him more often

1 than that during the campaign.

2 549 Q. And most of these meetings took place in Buswells

3 Hotel --

4 A. Yes.

5 550 Q. -- it would appear?

6 A. Yes, that would be handy to the Dail, when I would be

7 in the Dail and then heading out to do the canvass and

8 everything else, I would have, maybe, a quick meeting

9 with Tom, and arrange to - such-and-such a team to go

10 here, or there, or elsewhere to help, or where I needed

11 help, or where specific work could be done with posters

12 to be put up and things like that.

13 551 Q. It would seem from Mr. Brennan's diaries that he was

14 engaged on nearly a whole-time basis throughout that

15 period with meeting lawyers and accountants and bank

16 managers, and matters such as that sort in connection

17 with, primarily the difficulties that had arisen in

18 connection with Sandyford. You have obviously gone

19 through his diary records, and you can see meeting

20 after meeting with solicitors, different solicitors,

21 banks, bank managers, people such as that sort.

22 .

23 MR. DUNNE: Again, Sir, that is a comment, I think, on

24 behalf of Ms. Dillon.

25 .

26 MS. DILLON: I will go through the diary entries

27 one-by-one in the morning, Sir, particularly to set the

28 meetings in context. I can take Mr. Burke through all

29 the diary entries in the morning.

30 .

1 MR. DUNNE: That is fine.

2 .

3 CHAIRMAN: Do you want to continue?

4 .

5 MS. DILLON: Yes, Sir. If we leave it there until the
6 morning.

7 .

8 CHAIRMAN: We will leave it there until the morning.

9 Okay. Very good.

10 .

11 MS. DILLON: Thank you, Sir.

12 .

13 THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
14 WEDNESDAY, THE 14TH OF NOVEMBER, 2001, AT 10:30 A.M..

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