

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 15TH OF
2 NOVEMBER, 2001, AT 10:30 A.M.:

3 .

4 CHAIRMAN: Good morning everyone.

5 .

6 MS. DILLON: Morning, Sir.

7 .

8 Mr. Burke, please.

9 .

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

12 .

13 1 Q. MS. DILLON: If we could turn to look, very quickly,

14 Mr. Burke, at the question of the entries in Mr. Tom

15 Brennan's diaries.

16 .

17 And the first entry is at page 839 of the circulated

18 documents. And it's January of - Friday the 4th of

19 January, 1985. At page 839?

20 A. Yes.

21 2 Q. And you will see that you had a meeting at 10:45, it

22 would appear. That's you, I presume, at the bottom of

23 the page: "Friday the 4th of January, 1985. Ray -

24 Buswells?

25 A. Could have, yes.

26 3 Q. You will see that follows at 10:30 a meeting with

27 George Harrington, that Mr. Brennan had apparently with

28 Mr. Harrington.

29 A. Where is that?

30 4 Q. If you go back up above your name, if you move up four

1 lines, you will see "10:30"?

2 A. He is in Mileys. He is in Kennys, with Morris, with
3 McGuinness, and with Mileys. Yeah, I don't know.

4 5 Q. But it would seem that a significant number of the
5 people that he was meeting that day were his solicitor,
6 his valuer, and he was also meeting you at a quarter to
7 11, it would appear?

8 A. I would have met Tom regularly.

9 6 Q. Yes. And in the course of this period of time, if we
10 move on to May of 1985; I think you told us there was
11 an election in May, or around May of 1985?

12 A. The election was actually - I have got the results
13 sheets for it.

14 7 Q. The date will do?

15 A. The 20th of June, 1985.

16 8 Q. And I think it was your evidence yesterday, or the
17 previous day's evidence, that your meetings with
18 Mr. Brennan at this time would have concerned primarily
19 matters such as canvassing, and organising canvassing
20 teams?

21 A. In the main it would have been about that, yes.

22 9 Q. If we look at May of 1985, at page 841, and we look at
23 the 10th of May.

24 A. Yes, I have it here.

25 10 Q. You see that, "4 p.m. - Ray"?

26 A. That would have been a Friday evening before I left
27 town to go out to North County Dublin.

28 11 Q. You will see there, that also the people he is meeting
29 in the course of that day are John Caldwell, his
30 solicitor, "2:30 - Stephen" or "Stephens", and "2:30 -

1 George Russell"?

2 A. Well, I had no knowledge of his business meetings, but
3 I would have been talking to him on the Friday evening
4 before going out. I can't be absolutely certain. We
5 are talking about 1985 here. But it is quite likely I
6 would have been talking to him about the canvass plans
7 and the programme for the elections at that stage for
8 what was the weekend programme, what I was doing or
9 where I was going, or which churches I was going to be
10 at, and which masses I would be outside, and what help
11 he could offer. That would be the sort of conversation
12 that would go on at that time.

13 12 Q. And it's clear from the diary entries that on that
14 particular day the balance of the people he was meeting
15 were people concerned with his business affairs which,
16 as you know, Mr. Burke, in May of 1985 had crystallised
17 into a very serious dispute involving two banks on the
18 lands on Sandyford.

19 .
20 Is it your position that Mr. Brennan did not at any
21 stage discuss any of those matters with you?

22 A. He would have in a general way, I assume, at some
23 stage, have mentioned his business concerns at various
24 times. In his life he would have mentioned things to
25 me.

26 .
27 At that particular meeting - it would be most peculiar
28 if a businessman's diary didn't include his business
29 connections. But I am giving you what I, what I would
30 recall as being the meeting, and the content of the

1 meeting, assuming that's the situation.

2 13 Q. At page 843, Sunday, the 19th of May at 4:30 there is a
3 reference, as you can see, "PJ Burke". Was that your
4 father?

5 A. It could have been my father - my father died in
6 September. He would have been in the nursing home at
7 that time. Maybe he went out to see my father in the
8 nursing home. I don't know.

9 14 Q. If we turn to page 844.

10 .

11 Mr. Burke, if we look at Thursday, the 23rd of May --

12 A. Yes.

13 15 Q. -- we see at 5:35 at the bottom or - 5:35, it is "Ray -
14 Buswells", but immediately preceding that we see that
15 he is meeting Stephen Miley, John Caldwell, Stokes
16 Kennedy Crowley, Hill Samuel, Pat O'Toole, Harry
17 Riddle, Stephen Miley again, and somebody called Joe
18 Shelbourne. And it would appear on that day, that all
19 of these meetings were connected with the difficulties
20 in which he found himself, because they were all
21 persons involved in giving him advice and assistance in
22 relation to the difficulties he found himself --
23 .

24 MR. HAYDEN: Sorry, Sir. I don't want to delay the day
25 that's in it. Ms. Dillon has indicated that all of
26 those people were involved in giving him advice in
27 relation to problems that had arisen. I am not
28 entirely - my memory may be flawed, but I don't think
29 it's been putt to Mr. Stephen Miley that the meeting
30 was in relation to any particular issue.

1

CHAIRMAN: I note what you are saying.

3

4 16 Q. MS. DILLON: The position, of course, with Mr. Stephen

5 Miley is that he was advising Mr. Brennan at this time,

6 and we did deal with that in evidence with Mr. Stephen

7 Miley. Not that this specific meeting was put to him,

8 but that he was an adviser of Mr. Brennan's at that

9 time.

10

11 It would seem, Mr. Burke, from looking at the diary,

12 that the majority of the people that Mr. Brennan met on

13 that day were people with whom he had dealings in

14 connection with the difficulties in which he found

15 himself?

16 A. And every other day seems to be the same to me, but -

17 just glancing at the diaries here. But the particular

18 time that he met me in the evening is a Thursday

19 evening at 5:35. Dail breaks up at five o'clock. Tom

20 is in town doing business all day, as per his schedule

21 of meetings there. And he meets me at 5:35 or 5:30 as

22 I am leaving the Dail, heading to North County to

23 continue canvassing and continue my work.

24

25 Nothing unusual in that, whatsoever, just fit it in at

26 the end of his day's work. That's all.

27 17 Q. There is nothing in the diary so far that we've looked

28 at to suggest that Mr. Brennan had an arrangement to

29 meet you anywhere in connection with canvassing teams,

30 meeting canvassing teams, being out in North County

1 Dublin or anything such as that sort. Isn't that
2 right?

3 A. That's correct. But I would have been meeting Tom
4 about that whole issue at the time in relation to the
5 elections.

6 18 Q. What you had told the Sole Member two days ago,
7 Mr. Burke, is you were meeting him to arrange
8 canvassing teams and going out canvassing?

9 A. Going out canvassing. What he would do is, he would
10 establish teams, send groups of workers out, not
11 necessarily himself, he would send groups of workers
12 out, fellows that would go out and put up posters for
13 us, not just in my constituency but in other
14 constituencies at the time, because Tom was - he was
15 very much involved in helping adjoining constituencies
16 as well. He would be checking with me, how is the
17 campaign. He is a political junkie. When you would
18 know him, all he wants to do is talk politics and talk,
19 "How is the thing going?", "How is the campaign
20 going?", or "What's happening in the Dail?" It's just
21 like a lot of Irish people who like to gossip about
22 politics. Tom is one of those people, and he would
23 talk to you about "How is it going?", or "What's
24 happening?", "Do you need any more workers? Have you
25 enough on the ground? Do you want a few guys on the
26 weekend or what's the story?"
27 .
28 That's the type of level of conversation that would
29 take place.

30 19 Q. If we go back then to deal with the question,

1 Mr. Burke, which was: There is nothing in the diaries
2 that we have looked at so far to indicate that
3 Mr. Brennan made arrangements through his diaries in
4 connection with canvassing teams, or meeting points for
5 canvassing teams, or locations of canvassing teams, or
6 anything, in so far as we have looked at it. Isn't
7 that right?

8 A. That would be correct. I had no reason to think that
9 he would put that in his diary, and I would be very
10 surprised if he did.

11 20 Q. But we do know if we look, for example, at Wednesday
12 the 22nd there, that he has noted that there is a party
13 on at 8:30, and we note that he notes that in his
14 diary. We also note that he had an interest in - we
15 also note that he had an interest in the RTE Today
16 Tonight programme, because he has also noted that in
17 his diary, if we scroll up to the top of the page?

18 A. That was from the 22nd, I see.

19 .

20 MR. HAYDEN: He seems to have an interest in girls as
21 well.

22 .

23 21 Q. MS. DILLON: It seems that Mr. Brennan noted a great
24 deal of things in his diary, Mr. Burke. But he doesn't
25 seem to have noted anything in connection with
26 canvassing. Isn't that right?

27 A. I don't see it there, other than the meetings that he
28 would have had with me at those times.

29 22 Q. Yes. And if we move on to look at the next page in
30 which your name appears, which is at page 845. On

- 1 Monday, the 27th of May, we see a meeting at 5 p.m.
2 with J Keenan, who I presume was the same Mr. Keenan
3 who did the plans for your house?
- 4 A. I have no idea of that. Probably - I assume it is.
5 Jack was an architect for me.
- 6 23 Q. We see at 5:30 he is meeting you in Buswells. And we
7 see at 6:45 he is going to the Berkeley Court. Again
8 there is nothing there to indicate he was involved in
9 any way with providing canvassing services, or going
10 out meeting canvassing teams, or doing anything such as
11 that sort. Isn't that right, Mr. Burke?
- 12 A. That is right, according to the interpretation that you
13 are putting on the diaries. I am telling you the way
14 the period in question, in 1985, the way life was. And
15 if you look through his diaries in other elections
16 you'll see similar things, where he has been helping in
17 campaigns.
- 18 24 Q. Do you have Mr. Brennan's diaries in other elections,
19 Mr. Burke?
- 20 A. I don't have.
- 21 25 Q. Have you seen them?
- 22 A. I haven't seen them. I am assuming. I haven't seen
23 them. I never saw diaries of Mr. Brennan's until this
24 Tribunal started. I am just assuming that he would
25 have the same thing.
26 .
- 27 And as I said to you the last day I was in the box
28 here, I am amazed that there is only these number of
29 meetings, that I would have assumed there would have
30 been more.

1 26 Q. You will see that the balance of the people, or the
2 majority of the people that he met on that day were
3 also people related to his business affairs, and people
4 from whom he was seeking or obtaining advice in
5 connection with the difficulties in which he found
6 himself?

7 A. Yes, but that runs true of nearly every page on the
8 diary where I am not involved at all. You can make
9 whatever connections, which you will, for yourself.
10 That's your job, as I understand it. But if you look
11 through the other days, you will see that he is
12 meeting, as any businessman is, he is meeting the
13 people that he's doing business with, nothing to do
14 with me.

15 27 Q. Yes. But in so far as you have said, and your evidence
16 was that the purpose of your meetings during this
17 period of time was for the purpose of setting up
18 canvassing teams, organising the canvassing teams in
19 North County Dublin. It would appear, Mr. Burke, in so
20 far as these diaries reflect anything, they do not in
21 any way identify either the election or canvassing or
22 arrangements in relation to canvassing teams in North
23 County Dublin on the diary. Isn't that right?

24 A. That's true. And neither does it indicate about any of
25 the meetings that he has with anybody else on that
26 diary, from what I can see, as to what the contents of
27 those meetings were about, or what were the discussions
28 with all of his business connections with various
29 names. There is lists of names here of people that he
30 met. There is no suggestion of a follow-up. Most

1 people write in their diary, "had a meeting" - put it
2 in their diary as to the intention to have a meeting.

3 28 Q. Yes. If you turn to page 848, Mr. Burke, you will see
4 that at 1 p.m. on Thursday, the 6th of June, 1985, you
5 again appear to have met Mr. Brennan in Buswells. You
6 will also see at 10:30 he met Mr. Stuart Harrington,
7 and that there were other meetings set out. He was
8 meeting Mr. Russell, for example, at 3:30, and again he
9 is meeting at 11 a.m. Mr. J Keenan, again I presume
10 that's the same Mr. Keenan who was the architect of
11 your house?

12 A. Well, you keep repeating this, that he was the
13 architect of my house. Mr. Keenan was an architect
14 for, I am sure, thousands of houses in this country, as
15 well as my home. My home had been built in 1972. We
16 are now into 1985. Again, it would be - in fact, if
17 you look at Thursday, the 6th of June, the Dail would
18 have been sitting on the 6th of June, on a Thursday. I
19 would have been in the Dail and would have slipped
20 across to Buswells to meet Tom for a bite of lunch or
21 to have a chat with him. As I told you already, and I
22 told you many times, I don't want to delay this
23 morning, the purpose of those meetings at that time
24 would have been in general about the election.

25 29 Q. Not about canvassing or arranging canvassing teams?

26 A. It would be about canvassing, about "How is it going?"
27 "How is the campaign going?" "What's it look like?"
28 All of the normal chitchat between a political worker,
29 somebody who helps in campaigns, somebody who arranges
30 for others to help in campaigns, that type of general

1 chitchat, quick chat about, "How are things going?" I
2 can't say whether at one o'clock I could have had lunch
3 with him, I don't know, because we often had lunch
4 together.

5 30 Q. Because you had told the Sole Member, as you recollect,
6 Mr. Burke, that the purpose of these meetings was
7 solely for the purpose of arranging canvassing teams,
8 of putting people on the ground, organising cars,
9 organising areas, that is an entirely different thing,
10 Mr. Burke, to a political chitchat --

11 A. The political chitchat would be about the campaign,
12 "How is the campaign going?" "What help do you want on
13 the weekend?" "How did last weekend go?" "Do you want
14 extra people in?" "Do you want workers in?" "How many
15 cars are you going to plan to need on polling day?"
16 That sort of general political conversations that take
17 place with people who are going to help in elections.

18 31 Q. Did you have a campaign manager, Mr. Burke?

19 A. I did most of my own campaign work in 1985 myself.

20 32 Q. Did you have a campaign manager, Mr. Burke?

21 A. My campaign manager would have been my brother-in-law,
22 who was the Director of Elections in the constituency.

23 33 Q. And did Mr. Burke have similar contact with - did
24 Mr. Brennan have similar contact and communication in
25 relation to organising canvassing teams in matters such
26 as that sort?

27 A. They would have come into the constituencies. But it
28 just - it wasn't just about my constituencies, it would
29 have been about other constituencies as well.

30 34 Q. You will see on Document 848, that at 10:30 he had met

1 Stuart Harrington, whom, as you know, Mr. Burke, was
2 the person who was negotiating on behalf of Canio
3 Limited to sell the Canio lands to a Local Authority.
4 Is that right?

5 A. From what I've seen of the transcripts of the evidence
6 of the Tribunal, I very much doubt it was about that,
7 because Mr. Brennan made it quite clear that he wasn't
8 in favour of that sale of that land, if I recall.

9 35 Q. You've also seen the documentation where Mr. McClune on
10 behalf of Dun Laoghaire Corporation made an offer to
11 buy the lands. Isn't that right? You'll have seen
12 that in the circulated documents?

13 A. It would have been from Dun Laoghaire Corporation, yes.

14 36 Q. And if we turn to page 851, Mr. Burke, you will see
15 that you have a meeting on June the 24th, at 5 p.m., in
16 Buswells Hotel, again "Ray"?

17 A. On Monday, yes, before the election.

18 37 Q. You will see that --

19 A. Just after the election, sorry. The election was the
20 20th. We would have been gossiping about the election
21 and how it went. It would have been a question of
22 congratulations all around, about how successful we
23 would have been in the campaign.

24 38 Q. I see. And you will see again that immediately after
25 that he meets a financial adviser called Mr. Taylor,
26 and immediately before that he is dealing with one of
27 the bankers from Lombard & Ulster?

28 A. I would be very surprised if a businessman's diary, on
29 a daily basis - and if I go through his diaries, you
30 will see that he is meeting everybody and anybody,

1 bankers. The next day he is meeting - the following
2 day he is meeting different bankers. Nothing to do
3 with me, whatsoever. He is meeting Mr. Russell. He is
4 meeting all sorts of people.

5 39 Q. And at page 852 on Thursday, the 27th of June, we see
6 at 4:30, again, "Ray - Buswells". Isn't that right?

7 A. Yes.

8 40 Q. If we move on to 583 on Monday, the 1st of July, at 3
9 p.m., we see he is again meeting you in Buswells?

10 A. Yes.

11 41 Q. Followed by a meeting with Mr. Stephen Miley?

12 A. Sorry?

13 42 Q. Followed by a meeting at 4 p.m. with Mr. Stephen Miley,
14 and 5 p.m., Mr. Don Reid?

15 A. I don't see those on the copy I have here.

16 43 Q. 853 on the screen, Monday, the 1st of July.

17 A. Don Reid and Stephen Miley. One is a solicitor and the
18 other was his tax adviser.

19 44 Q. Yes. And it would seem that the majority of the people
20 that - with whom Mr. Brennan had meetings in the course
21 of this period were people from - with whom or from
22 whom he was seeking advice in connection with the
23 difficulties he had in connection with the Sandyford
24 lands, other than yourself. And it is your evidence,
25 Mr. Burke, that other than discussing this with you in

26 --

27 .

28 MR. HAYDEN: Again it goes back to the objection I had
29 a few moments ago. Ms. Dillon is portraying all of
30 these meetings, all of these personnel as having met

1 Mr. Brennan for a single purpose. There has been no
2 evidence to that effect at all. All of these
3 individuals who are named in the diaries, clearly, for
4 many years before and many years after this - these
5 number of months, Mr. Brennan met the same people.
6 Because, as you've heard, Sir --

7 .

8 CHAIRMAN: Broadly speaking --

9 .

10 MR. HAYDEN: -- these were solicitors doing business on
11 behalf of these various businesses, the bank and so
12 forth.

13 .

14 CHAIRMAN: I've got the message.

15 .

16 MR. HAYDEN: I am not trying to - I am just looking
17 after Mr. Brennan. But it has been portrayed on the
18 part of Mr. Brennan as if a certain state of affairs
19 existed, which was never put to him by Mr. Hanratty.

20 .

21 45 Q. MS. DILLON: In so far as - can I deal with them this
22 way: As the majority of the people that Mr. Brennan
23 had entered in his diary were advisers, some of whom
24 were advising him about the difficulties that he had at
25 the time, as we know. Even if we take it at its
26 barest, and as My Friend has suggested, in that they
27 were all business meetings, or the majority of them
28 were business meetings, is it the position that your
29 meetings with Mr. Brennan were also business meetings?

30 A. No, my business meetings with Mr. Brennan - I wouldn't

1 have had business meetings with Mr. Brennan in 1985. I
2 was out of business at that stage. It would have been
3 political meetings. I was gone out of business. I was
4 a full-time politician at that stage.

5 46 Q. And is it your evidence that the main purpose of these
6 meetings over this period of time were to do with
7 organising canvassing teams, arranging drivers, cars,
8 as you've previously described to the Sole Member of
9 the Tribunal?

10 A. Yes. And if you look at the 1st of July - on the 5th
11 of July was the day that I took over and was elected as
12 Chairman of the Council. And it's of no surprise to me
13 at all that Tom would be meeting me on the 1st of July,
14 after a long weekend, when we hadn't got the full
15 majority. We were hoping to get the Chairs and the
16 Vice Chairs of the Council, et cetera, and the various
17 committees. And it is of no surprise to me at all that
18 Tom has it down there, at three o'clock, that I was
19 meeting him. I have no doubt that he was following,
20 habitually following at that time what was going on in
21 relation to the forthcoming Chairmanship election of
22 the Council.

23 47 Q. Yes. But in so far as you have described to the Sole
24 Member that the purpose of these meetings was the
25 organising of canvassing teams, drivers, getting people
26 out on the ground, knocking on doors and matters such
27 as that sort, I suggest to you, Mr. Burke, that
28 whatever else, yourself and Mr. Brennan were discussing
29 during this period of time, it does not appear to be
30 related to matters such as that sort?

1 A. Well, on the contrary. I would suggest to you that
2 exactly with the time frames and the days of the week
3 that the meetings were, it would indicate exactly the
4 point that I have just indicated to you. And there
5 isn't one screed of evidence to suggest anything
6 different.

7 .
8 And as I said to you the last day, I am surprised that
9 there are so few meetings indicated in the diaries,
10 because it would be my normal procedure in those sort
11 of campaigns, that Tom would have been in touch even
12 more often than that. And he could have been in touch
13 by phone. He would have been checking to see how the
14 thing was going. You will also notice in the diaries
15 that he's not just talking to me, he is talking to
16 other councillors and other people. He would have been
17 helping in other constituencies as well.

18 48 Q. Is it your position, and is it your evidence,
19 Mr. Burke, that the reason you say these meetings were
20 to do with the election is because of the time
21 connection, that these meetings take place in or around
22 the time that the election happened? Is that the
23 connection that you are making?

24 A. It's not the connection I am making, it's the reality
25 of the situation.

26 49 Q. Well, what you've said in your previous answer is,
27 "Well, on the contrary, I would suggest to you that
28 exactly within the time frames and the days of the week
29 that the meetings were, it would indicate exactly the
30 point that I have just indicated to you." Which

1 clearly suggests that you are making a time connection,
2 Mr. Burke, which means that your evidence is based on
3 the coincidence of the Local Authority elections and
4 the diary taken together?

5 A. I am basing it on my memory of talking to Tom during
6 that period, and I am - in that election and in other
7 elections in relation to the scenario. I can't give
8 you, Mr. Chairman, here, the details of every item of
9 conversation that took place during meetings that took
10 place in 1985, in May and June. I am giving you my
11 best recollection of them in the context of - that they
12 are set.

13 50 Q. And it's your best recollection that Mr. Brennan
14 throughout this period did not discuss in any specific
15 way the difficulties he was having with the Sandyford
16 lands?

17 A. Not in specific ways. He would not have discussed it
18 with me at all.

19 51 Q. If I could turn to the question, very briefly, again,
20 Mr. Burke, in connection with the voting to do with
21 Fortunestown, Tallaght, County Dublin, and a statement
22 that you made to the Garda on the 24th of the 7th,
23 1974, in connection with same?

24 52 Q. "There was a motion proposed to Dublin County Council"
25 - this is your statement. I want to ask you about the
26 statement.

27 A. I just want to get up the statement.

28 53 Q. I don't wish you to use the statement. I wish you to
29 give your evidence from your recollection --

30 .

1 MR. WALSH: Sir, this is something that's happened in
2 1974, and he is asked out of the blue about a
3 statement. Surely he is allowed to see the statement,
4 identify it and then he can be asked questions on it --

5 .
6 CHAIRMAN: All right. All right. Mr. Burke can have a
7 look at his statement for the purpose of refreshing his
8 memory, even though it's not contemporaneous with the
9 event.

10 .
11 Now, Mr. Burke --

12 A. Which page is it, please? There is a number of pages
13 in this statement.

14 .
15 54 Q. MS. DILLON: Page reference 38 and 39 at the top.

16 A. 38 and 39.

17 55 Q. Starting with page 38: "I am member of Dail Eireann."

18 A. I have it here.

19 56 Q. Consider the first paragraph of that?

20 A. Give me a moment. I'll read it, Mr. Chairman. Yes, I
21 read the first paragraph of it, yes.

22 57 Q. This is a statement that you made in July of 1974 in
23 the course of the Garda inquiries, isn't that right?

24 A. That's right, yes.

25 58 Q. In fact, it would appear, and I think you have been
26 furnished with the full documentation. It would appear
27 that, in fact, the Gardai furnished their report in
28 relation to this matter to the Garda Commissioner for
29 onward transmission to the Office of the Attorney
30 General on the 7th of August, 1974?

1 A. That's right. Yes.

2 59 Q. How is it, then, that Mr. Casey was getting an
3 authority from you on the 18th of August, 1974, to
4 interview your bank manager?

5 A. I have no idea.

6 60 Q. Because the actual report in connection with this
7 matter, page 5449, please, as we see, was, in fact,
8 forwarded to the Office of the Attorney General by the
9 Gardai on the 7th of August, 1974?

10 A. I see that.

11 61 Q. Yet you had authority directing your bank manager to
12 assist Mr. Casey is dated the 18th of August, 1974?

13 A. Well, maybe they came back for something in addition in
14 relation to the house. I have no idea.

15 62 Q. In any event, if we go back to the statement that you
16 made to the Gardai in connection with this matter, and
17 dealing very briefly with it.

18 .

19 As I understand what you are saying there, Mr. Burke,
20 and you may wish to correct me if I am wrong, is that
21 there was a proposal to put a Compulsory Purchase Order
22 on certain lands at Tallaght in which --

23 .

24 MR. WALSH: Could I just make a point? There has been
25 no evidence called on anything to do with this before
26 now, so I don't see why it's fair for Ms. Dillon at
27 this late stage to be going into this matter, which is
28 of historical record some 26 years ago, 25 years ago at
29 this stage.

30 .

1 No evidence has been called from anybody on this topic
2 before. Mr. Burke is here to answer for himself and
3 for any evidence that has been called, for evidence to
4 be put to him.

5 .
6 CHAIRMAN: We'll proceed for the moment and we'll see
7 how far your objection --

8 .
9 63 Q. MS. DILLON: As far as I understand your statement,
10 Mr. Burke, it appears that the position was that there
11 was a proposal in Dublin County Council to place a
12 Compulsory Purchase Order on certain lands at
13 Fortunestown, Tallaght, County Dublin. Mr. Brennan had
14 an interest --

15 A. Yes.

16 64 Q. -- in those lands. You voted against the Compulsory
17 Purchase Order?

18 A. Yes.

19 65 Q. And you told the Garda that Mr. Brennan put the views
20 of the company personally to you?

21 A. That's right.

22 66 Q. And that you were impressed by them?

23 A. That's right.

24 67 Q. Right. Did you disclose to the Garda, when you were
25 making this statement, the extent of the financial
26 support, or the extent of your financial relationship
27 with Mr. Tom Brennan?

28 A. The extent of my financial --

29 .

30 MR. HAYDEN: Sir --

1 .
2 CHAIRMAN: Just a moment. A question has been asked.

3 I want to hear the answer.

4 A. Of course the Guards were aware of my connections with
5 Mr. Brennan --

6 .
7 MR. WALSH: Sorry, Mr. Burke. Sorry, Sir, evidence of
8 this allegation of financial support should have been
9 adduced in evidence before this question was put to
10 Mr. Burke. There has been no evidence --

11 .
12 CHAIRMAN: Unless you were not with us yesterday
13 afternoon, my recollection of the whole afternoon
14 related to financial support that he was receiving.

15 .
16 Now, let me be quite clear. Financial support he was
17 receiving, I am not saying in any way improperly. He
18 was certainly in receipt of a monthly cheque from the
19 firm in relation to his activities as an auctioneer,
20 and he also was subsequently in receipt of substantial
21 sums, which the witness says were political donations.

22 .
23 Now, there is no reason why - that this can't be
24 inquired into.

25 .
26 MR. WALSH: My objection is to the phrase "financial
27 support". The evidence before you is professional fees
28 were paid on a monthly basis, of approximately ú1,000 a
29 month, over a couple of years. That is different from
30 financial support. Financial support implies a gift or

1 a present, or something like that. And there hasn't
2 been any evidence of that. And there is no evidence of
3 that.

4 .

5 CHAIRMAN: The evidence before the Tribunal is that
6 money was paid for services, which the witness says was
7 for services rendered and/or political purposes. Now,
8 that's the evidence.

9 .

10 MR. WALSH: Sorry at 1972, '73, '74, there was no
11 political contribution. There was no evidence of
12 financial support at that stage. So it's incorrect --

13 .

14 CHAIRMAN: Just a moment. One person only.

15 .

16 MR. WALSH: It's incorrect for Ms. Dillon to phrase it
17 "financial support". And the interpretation of that
18 phrase that you appear to be taking, Sir, is that it's
19 equivalent to the political contribution and the
20 political --

21 .

22 CHAIRMAN: -- that funds were moving. I am not taking -
23 I am making it quite clear that at this moment in time,
24 I take the witness's statement that he was receiving
25 payments for services rendered.

26 .

27 MR. WALSH: I can have no difficulty with that phrase,
28 if that's the phrase that's used, Sir.

29 .

30 CHAIRMAN: That's the phrase that I am using.

1 .

2 MS. DILLON: There is no difficulty about that. Just

3 so the record is absolutely clear, the evidence of Mr.

4 Brennan and the evidence of Mr. Burke has been that in

5 addition to the off-shore payments that were made by

6 Messrs. Brennan and McGowan, and in addition to the

7 auctioneering arrangement with PJ Burke (Sales)

8 Limited, it was the habit of Mr. Brennan and his

9 companies to offer financial support in Ireland to

10 Mr. Burke at election time, from the time he first

11 stood for office, which, as far as I understand this

12 witness's evidence, to be from 1972.

13 .

14 MR. HAYDEN: Just --

15 .

16 MS. DILLON: That was my understanding of Mr. Brennan's

17 evidence.

18 .

19 MR. HAYDEN: If I might just say, Sir. My objection

20 was that Counsel on behalf of the Tribunal, in the

21 clear knowledge of what the evidence has been from

22 Mr. Brennan and Mr. McGowan, that the payments made

23 were in relation to the monthly sum fees from

24 Kilnamanagh and the Brennan and McGowan companies.

25 That was converted into a financial contribution by

26 Mr. Brennan in the question from Ms. Dillon. And

27 again, Sir, you are not a jury. And I understand that,

28 and I am not trying to suggest that for a moment you

29 would be misled by that misinterpretation, but --

30 .

1 MS. DILLON: I've already said I will rephrase the
2 question.

3 .

4 CHAIRMAN: All right. The question is going to be
5 rephrased. Now, I want to get business finished with.
6 And this sort of interruption is not really getting us
7 very far.

8 .

9 I accept that you have a right to interfere -
10 interrupt, but we must get moving on. I must be - it
11 must be assumed that when I read a transcript, I am
12 reading the entire transcript and assessing what I
13 think is the end product. It's not just one phrase
14 here or there.

15 .

16 68 Q. MS. DILLON: Did you disclose to the Gardai that your
17 company was in receipt of €1,000 per month by way of
18 Standing Order from Kilnarnagh Estates, a company with
19 which Mr. Brennan had a close association and a
20 substantial interest?

21 A. I wasn't in receipt of my fees at that stage, in 1974,
22 in the manner in which has been outlined. But the
23 Gardai were well familiar, and went through all my
24 records in relation to my business relationship with
25 Oakpark and with the Brennan and McGowan Group in
26 general terms.

27 .

28 As far as the document that you have just brought to my
29 attention is concerned, I made a statement to the
30 Guards, as not only did I, but everybody else who was

1 on the Council did.

2 .

3 The Guards fully investigated the proposals in relation
4 to the proposal being put forward by the company. In a
5 cross party vote, the proposal was adopted in relation
6 to the allocation of some land, 163 - according to the
7 Garda report here, 163 acres of the land from the
8 consortium went to the Local Authorities. 700 acres
9 went to the - of the 700 acres, 163 were given to the
10 Local Authority. That was a cross party vote.

11 .

12 This matter was fully investigated by the Guards, and
13 the DPP decided that, he considered that the very
14 thorough and painstaking Garda investigation had not
15 disclosed any evidence warranting a prosecution, and
16 that was the view suggested by the Guards to the DPP as
17 well at the time, to the Attorney General per the
18 report here.

19 .

20 So there was absolutely nothing improper and I - I or
21 none of the other people from across the party divide
22 had any case to answer.

23 .

24 And this was all investigated. And the DPP
25 congratulated the Gardai in the thorough way they
26 investigated it.

27 69 Q. If we can go back to what you said in your statement,
28 you said: "Mr. Brennan put the views of the company
29 personally to me. I was impressed with what he
30 proposed, as it was in line with what I felt and with

1 Fianna Fail Party policy, of encouraging free
2 enterprise. At no time was any inducement offered to
3 me to influence my voting."

4 .

5 If I could just ask the question and then you can
6 answer it, Mr. Burke. Is it the position, then, that
7 in so far as Fortunestown, Tallaght was concerned,
8 Mr. Brennan made a personal representation or
9 submission to you in connection with it?

10 A. In 1974, in line with every other councillor in the
11 Council. If you read the Garda file, you will see that
12 the case in relation to each of the - in relation to
13 the proposal being put forward - Mr. Brennan was only
14 one part of a consortium of, I think, about five or six
15 companies or more involved in a consortium. And the
16 case was put to each member of the Council.

17 .

18 You'll see statements in the Garda file from every
19 member of the Council.

20 70 Q. Did you understand the question, Mr. Burke?

21 A. Yes, I've answered the question.

22 71 Q. If you would mind answering it.

23 .

24 Is it the position that Mr. Tom Brennan made a personal
25 representation to you in connection with the
26 Fortunestown, Tallaght transaction?

27 A. Yes. You could call it a representation. He outlined
28 his point of view, yes.

29 72 Q. And in what you describe in your statement, that he did
30 so personally, do I understand that to mean that you

1 did that on a one-to-one basis?

2 A. I don't know whether he came to a group of councillors,
3 as a group, or whether he came to - in what manner, I
4 am not sure. Whether it was done in writing, I am not
5 sure.

6 73 Q. If it is likely that you had met Mr. Brennan in the
7 company of other councillors, or Mr. Brennan was in the
8 company of other developers, would you in all
9 likelihood have described it in your statement as
10 "Mr. Brennan put the views of the company personally to
11 me"?

12 A. Well, I am not sure exactly how it was done, going back
13 to 1974, when the statement was. But the meeting took
14 place - if I just look at the Garda file here. The
15 meetings took place in June - no, the meetings took
16 place in '73, I believe.

17 74 Q. So is it the position, Mr. Burke, that you would have
18 described, if you had met Mr. Brennan in the company of
19 other councillors, or in the company of other
20 developers, you would have said in your statement,
21 "Mr. Brennan put the views of the company personally to
22 me"?

23 A. Well, obviously, in reading that, it was that he was
24 personally there. Whether he was in the company of
25 others or not, I am not sure.

26 .
27 There would have been, just reading it as it is there,
28 it's going back a long, long time ago. And it would
29 have been - whether there were other councillors
30 present when he made the presentation personally in the

1 - rather than by writing, I am not sure.

2 75 Q. Because you go on to say, "I was impressed with what he
3 proposed, as it was in line with how I felt and with
4 Fianna Fail policy, of encouraging free enterprise."
5 That does not suggest, Mr. Burke, that there was
6 anybody else present when this meeting took place?

7 A. I am just trying to - I don't want to say one way or
8 another, because I don't know at this distance in time,
9 and I don't want to be picked up on something that I
10 say that I can't stand over.

11 76 Q. But you did support Mr. Brennan?

12 A. I supported the consortium.

13 77 Q. Of which Mr. Brennan was a part?

14 A. Of which Mr. Brennan was a part. I supported the
15 proposal that it should be a shared - rather than the
16 Dublin Corporation moving in on the whole area, that
17 there would be a shared proposal, and that shared
18 proposal was that the private enterprise would develop
19 one part of it, and that 160 acres or something,
20 according to Garda report here, just looking at it at
21 the moment, I wasn't expecting to be asked this, so I
22 haven't studied it carefully; that 106 acres would be
23 given to the Local Authority out of the overall
24 package.

25 .

26 MS. DILLON: I have no further questions for Mr. Burke
27 at this time, Sir. And I understand that Mr. Hayden
28 has some questions, and Mr. Walsh.

29 .

30 CHAIRMAN: Well, as Mr. Walsh is the witness's counsel,

1 Mr. Hayden goes first.

2 .

3 THE WITNESS WAS THEN CROSS-EXAMINED AS FOLLOWS BY MR.

4 HAYDEN:

5 .

6 78 Q. MR. HAYDEN: Just in relation to the last topic, it's

7 handy in time, Mr. Burke. In your statement to the

8 Guards that we've seen now, of the 24th of the 7th,

9 '74, you made no issue of the fact that you met

10 Mr. Brennan?

11 A. Absolutely not. It's - everybody was entitled to lobby

12 in relation to issues.

13 79 Q. Precisely. And that information was made known to the

14 Guards at the very outset, and the Guards formed their

15 report and sent it, as I understand it, on the 7th of

16 August, 1974, to the Attorney General. I think that

17 letter is also in the Garda file. And it was sent - I

18 think the AG at that time was Mr. Declan Costello?

19 A. Yes. And what it says, I am just going down through

20 the report. It says, "All members of the County

21 Council, past and present, have been interviewed

22 except", and he mentions a couple of names. I don't

23 want to bring them in at this stage. Some of them are

24 dead.

25 .

26 "They state, without exception, that at no time were

27 they improperly canvassed for their vote on any of the

28 issues raised in the newspaper articles, and we

29 completed the" - all of the cooperation with the

30 Guards. The Guards completed their report and said -

1 Superintendent Joy, Chief Superintendent Joy, that - he
2 said that - "the attached records with enclosures
3 referred to therein, and the result of investigations
4 carried out by Detective Inspector Casey and Detective
5 Sergeant Walsh of the Central Detective Unit, Dublin
6 Castle. I agree with them, that the investigation on a
7 number of aspects, of which I have had discussions with
8 them, do not disclose a breach of a criminal law."

9 .

10 And that was followed by a letter from the DPP saying
11 that he considered that the very thorough and
12 painstaking Garda investigation had not disclosed --

13 .

14 CHAIRMAN: Mr. Burke, may I point out to you, that that
15 document is part and parcel of the documents in the
16 knowledge of the Tribunal, and it is not necessary to
17 read it out.

18 .

19 I am aware of its existence. I see the point that you
20 are making, that you were being lobbied, and that you
21 claim the lobbying was perfectly in order.

22 .

23 We don't need ten minutes wasted in putting a Garda
24 report, which is already on the files of the Tribunal,
25 on to the record.

26 .

27 Now, please let us get on with the business of this
28 Tribunal with a degree of precision as to what we are
29 doing.

30 A. I had been asked about it, Mr. Chairman. I was

1 responding.

2 .

3 CHAIRMAN: Could we have shorter and briefer answers in
4 the response, please.

5 .

6 80 Q. MR. HAYDEN: All I was asking you was effectively the
7 Guards - you confirmed to the Guards such contact as
8 existed. The Guards looked into it, and that was
9 looked at, and a decision made, and the matter sent to
10 the AG, who made his decision at that stage on the
11 basis of the information?

12 A. The DPP made the decision.

13 81 Q. And for the recommendation to the AG.

14 .

15 Just a final matter on that issue. I think it wasn't
16 Mr. Brennan's application, it was his company, I think
17 that made the application --

18 .

19 CHAIRMAN: Mr. Hayden, may I point out that you,
20 likewise, are offending on exactly the same principle.
21 You are now becoming virtually a professional witness.

22 .

23 MR. HAYDEN: Sir --

24 .

25 CHAIRMAN: I mean, if you want to ask a question, by
26 all means, do so. But it doesn't have to be pressed by
27 a long statement of fact which you believe, and I have
28 no doubt you may --

29 .

30 82 Q. MR. HAYDEN: Ms. Dillon keeps saying Mr. Brennan does

1 things personally, whereas, in fact, it's his company.

2 .

3 Could you tell the Chairman who was - of the

4 consortium, what was the entity that represented

5 Messrs. Brennan and McGowan?

6 A. Fortunestown Holdings was the name of the company. It

7 was a group of companies of - I am not sure of the

8 numbers, and I don't want to go through it here. I

9 don't want to delay, with the instruction of the

10 Chairman.

11 .

12 There were about, I think, about ten companies

13 involved. I am not sure of the exact number. But they

14 put a consortium together in relation to a land holding

15 of about 700 acres, I think.

16 83 Q. Yes. My instructions are there were nine others, but I

17 don't know the exact. And it was Fortunestown

18 Holdings.

19 .

20 Moving on quickly, then.

21 .

22 Ms. Dillon has gone through the diaries, and I don't

23 propose to rehash all of the various entries.

24 .

25 If you could, perhaps, indicate, the offices of Miley &

26 Miley at that time were where, to your recollection?

27 A. They could have been South Frederick Street, which is

28 just around the corner from Buswells --

29 84 Q. Yes.

30 A. They then moved to Dawsons or to Molesworth Street,

1 which is just about five doors, well, it could be ten
2 doors down.

3 85 Q. Molesworth Street. And I think the offices of
4 Mr. George Russell, Reid & McNabb, I think, were
5 similarly quite close to the Dail?

6 A. I am not sure of that. I think they were South
7 Frederick Street as well, if I recall from the
8 letterheadings that I've seen.

9 86 Q. And in relation to the other individuals identified on
10 the various lists; Mr. Caldwell, I think, Binchys at
11 that stage, were in Fitzwilliam Square?

12 A. I don't know.

13 87 Q. The point I am making is, from a point of view of being
14 in town, it would have been all quite close to the
15 Dail, the various offices, for whatever business
16 purposes Mr. Brennan was attending to various
17 individuals?

18 A. Yes. I assume they are - like most of these
19 professionals, they would be at the centre city.

20 88 Q. I think the only exception - the furthest away would
21 have been Mr. Don Reid, which would have been up in SKC
22 at the time.

23 .
24 So --

25 A. Don't know.

26 89 Q. You did indicate, and Mr. Brennan himself indicated in
27 his own evidence, that he's known your family, your
28 father for quite a long number of years, and that there
29 was a strong friendship, not was, is a friendship
30 between the families?

1 A. It goes back to the '60s, yes. My father and himself
2 were both mailmen, and when Tom came back from the
3 States they met, and that was sometime in the mid-'60s.
4 And I met Tom in the late '60s, sometime at the end of
5 the '60s.

6 90 Q. In the context of meeting you, apart altogether - at
7 that particular time in relation to the diaries that we
8 have seen, there was the election on. But would it
9 have been your habit to meet over the years anyway for
10 a drink or a bite to eat?

11 A. We would meet regularly for a bite to eat, either in
12 Buswells or various - whatever hotel we happened to
13 pick, which was close to the Dail. It would normally
14 be a day that I was in the Dail and I would be able to
15 get out at lunch time, get the permission of the Whip,
16 and you would get away for an hour, have a bite at
17 lunch. This was a regular - a fairly regular thing.

18 91 Q. You had a social relationship?

19 A. Very close, yes, social relationship.

20 92 Q. You regularly met?

21 A. We regularly met.

22 93 Q. I think in fairness to you, you described Mr. Brennan
23 as somewhat of a political junkie. It is one of his
24 topics of great interest, I think. I think even the
25 Chairman had heard of that quite regularly from
26 Mr. Brennan when he was in the witness-box. That and
27 horses, I think, were the two things that Mr. Brennan
28 seems to get very interested in?

29 A. I heard so much about horses and breeds and - over my
30 head. But he would talk politics and horses to you all

1 day.

2 94 Q. Politics were a big interest to him?

3 A. Yes.

4 95 Q. I think from your own experience in relation to

5 politics, Mr. Brennan did regularly go out on the door

6 on behalf of - on your behalf?

7 A. He did, yes.

8 96 Q. And I think that certainly takes a level of interest

9 that goes beyond just merely discussing matters?

10 A. He canvassed for me regularly.

11 97 Q. Yes. Ms. Dillon has sought to suggest, in the context

12 of the fact that other people in the same part of the

13 town were in the diary on the same day, that it was in

14 some way connected to the difficulties that, or the

15 issues that had arisen in relation to the Lombard &

16 Ulster and AIB. I think you've indicated to the

17 Chairman your position in relation to it, and I think

18 it's Mr. Brennan's also. I will just formally put it

19 to you.

20 .

21 His view was he was helping, he knew you, knew you very

22 well, you regularly met, and politics would have been a

23 major issue. And at that time, with the election

24 coming on, he did give evidence to this Tribunal of

25 going out on the door and organising people to assist

26 in relation to the door to door canvassing.

27 .

28 Is it your evidence to this Tribunal that he did

29 actually perform those duties and functions?

30 A. Yes.

1 98 Q. In relation to - if I can just change topic.

2 .

3 Can I ask you to turn to page 5373.

4 .

5 I think it's your evidence to the Tribunal, in the last
6 number of days, that you did pay for - to Kilnamanagh
7 or to Oakpark a sum of money in relation to the house?

8 A. That's correct.

9 99 Q. You might be able to help me in relation to this, once
10 you have the - it's --

11 A. I have it up here in front of me. It's on the screen
12 here.

13 100 Q. Yes.

14 A. I'll get the hard copy of it. If you bear with me a
15 moment. Yes.

16 101 Q. That's a document that, I think, you indicated, arose
17 out of an inquiry vis-a-vis the house, and was
18 furnished to the Gardai by you?

19 A. Yes.

20 102 Q. Ms. Dillon has put to you that the - that document
21 post-dates the earlier document of the 7th of August,
22 1974, to - from - to Superintendent Joy, enclosing the
23 report to the Attorney General.

24 .

25 But at this remove are you able to remember - recollect
26 why the later query arose?

27 A. He must have come back and asked for further
28 information in relation to the house. I don't know.

29 103 Q. Yes. Because the first statement doesn't deal with
30 that issue at all.

1 .
2 Obviously, the - a further inquiry was raised by the
3 Gardai, and the consent given to access the
4 documentation --

5 A. That's right.

6 104 Q. -- at that time. And that letter furnished?

7 A. That's right.

8 105 Q. Quite considerable inquiry back and forth has occurred
9 in the context of whether you had a loan account, or
10 whether the monies were drawn down.

11 .
12 But if you might bear with me for a moment. It is the
13 evidence of the directors of Oakpark, such as their
14 recollection is, that you did pay, and I think that's
15 also your evidence, that you did pay. But in relation
16 to that letter of the 20th of August, 1974, at 5373, it
17 states the following: "The above gentleman was granted
18 bridging loan accommodation at this office on the 24th
19 September, '73, to the extent of ú15,000." And that
20 was secured.

21 .
22 The Letter of Undertaking is at page - you can bear -
23 you can take my word for it, it's at page 5437. But
24 there is no need to put that up on the system. It's
25 quite a short letter. It just states:
26 "On the instructions of our client, Mr. Burke, and in
27 consideration of the facilities afforded by your bank
28 to him, we hereby undertake to lodge the cheque on
29 receipt of same."

30 .

1 That Letter of Undertaking is the 28th of September,
2 1973. As we see from the letter of the 20th of August,
3 1974, which at the time was prepared in response to -
4 on behalf of the bank, they indicated in that that the
5 loan accommodation was granted, "Bridging loan
6 accommodation at this office on the 24th of September,
7 1973." And it was to be done on foot of a Letter of
8 Undertaking from the solicitors, Oliver Conlon &
9 Company, but the Letter of Undertaking post-dates it.

10 .

11 It seems that the Letter of Undertaking was a
12 precondition to the facility.

13 .

14 And in relation to it, you'll see, if you can just go
15 to page 5437, if you see from the Letter of
16 Undertaking, "On the instructions of our client in
17 consideration of the facilities afforded" - which seems
18 to suggest the facilities have already been afforded at
19 this stage - "we hereby undertake to lodge..."

20 A. Yes. They had been taken up on the 24th, before the
21 letter went through on the 28th?

22 106 Q. Yes, the letter is in the past tense, the facilities
23 have already been afforded to you.

24 A. I see.

25 107 Q. It goes on in the second paragraph of the letter on -
26 of the 20th of August, '74:

27 .

28 "Interest on this bridging loan at that time was
29 chargeable at 13 percent, and to alleviate this burden
30 Mr. Burke transferred the sum of 15,000 on the 12th

1 October, 1973, from his personal joint account in this
2 office, which has been accruing interest at the rate of
3 9 percent, thereby saving himself 4 percent interest in
4 the interim."

5 .

6 And it would appear from that paragraph that what
7 Mr. Delany is saying, is that the burden of interest
8 that you were meeting was 13 percent on the loan. The
9 benefit of interest you were getting was 9 percent on
10 the deposit, and by doing what you did, having had the
11 loan for a short period of time, it would appear you
12 reduced that exposure by - you saved yourself 4 percent
13 interest?

14 A. That's precisely it, yes.

15 108 Q. I have to put it to you that that paragraph in itself
16 quite clearly suggests that there was a facility in
17 existence for a period of time, in which you bore the
18 burden of a 13 percent interest rate, which was
19 subsequently reduced in the manner that you've
20 indicated, that you decided, "Why pay the extra loan
21 interest" when you could reduce it by lodging the
22 monies?

23 A. That's a reasonable interpretation.

24 109 Q. When one goes to the next paragraph, that sentence
25 states: "We wish to clarify that this bridging loan is
26 still available to Mr. Burke, should he decide to avail
27 of same."

28 .

29 I put it to you, in that context it seems to suggest
30 that the facility - the accommodation had been

1 afforded, repaid, but if you wished, pending the
2 drawdown of the loan cheque, which Mr. Conlon had given
3 an undertaking in relation to, the facility of a
4 bridging facility was still available to you, if you
5 wanted to take it up?

6 A. That's right.

7 110 Q. And it does no more than that. It just says that if
8 you still want to use it, having used it, cleared it
9 off, it's still there for you, pending the availability
10 of the loan cheque?

11 A. That's precisely it, yes.

12 111 Q. As I understand it, in the context of the loan cheque
13 from Property Loan and Investment Company Limited,
14 which itself was a subsidiary of Bank of Ireland, its
15 preconditions in relation to releasing the - a
16 precondition of the Property Loan, as a bridging
17 facility was the production of a report?

18 A. Yes.

19 112 Q. Satisfying - satisfactory to Property Loan and
20 Investments Company Limited, that the house was built,
21 I presume?

22 A. Well, that's the standard thing, but there had been a
23 series of correspondence - they had been looking for
24 the title deeds, first of all, and then they - the last
25 thing they had been - if I recall from yesterday's
26 exchange through the correspondence, I don't want to
27 delay the Tribunal by going back on it, my recollection
28 is that the last letter, I think, refers to surveyors,
29 examination, or it's referred to in there, anyway.

30 113 Q. All I am saying is that the - before you were going to

1 get the proper loan, the full home loan, so to speak,
2 there was yet an action to happen. So if you wished to
3 avail of the bridging facility, it was going to still
4 be there for you, pending that period of time?

5 A. That's correct.

6 114 Q. There is - Ms. Dillon made some emphasis in relation to
7 the paragraph - paragraph 3 of the final sentence,
8 "which is expected to come to hand in the very near
9 future."

10 .

11 I think at that stage that the bank were taking a view
12 - well, you still hadn't said you were not going to
13 take up the facility. You still hadn't taken up the
14 loan, so to speak, from Property Loan and Investment
15 Company Limited, but they felt it was going to come to
16 an end, it seems. A decision was going to be made one
17 way or the other by this stage. And the Chairman has
18 seen the correspondence asking for what you were doing.
19 I think you've indicated your answer?

20 A. I've already indicated my answer in relation to it. I
21 eventually decided that, for the reasons that I
22 outlined yesterday in relation to - that I had already
23 paid for it, and rather than taking a 20-year mortgage,
24 the interest rates had gone up, I just didn't bother
25 taking it.

26 115 Q. Yes, you didn't bother. That's all.

27 .

28 We then go to the final paragraph:

29 .

30 "The balance of the joint deposit account which stands

1 in the name of Raphael and Patrick Burke on 12 October
2 1973 was €17,559.50 from which sum Mr. Burke withdrew
3 €15,000 and lodged this to his bridging loan account."

4 You see that sentence?

5 A. Yes.

6 116 Q. For there to be an account - as I understand it, in the
7 operation of a banking facility, to be able to lodge it
8 to a bridging loan account there must be a loan account
9 in existence. If there isn't a loan account in
10 existence, there is a facility letter in existence
11 which offers you the facility to draw down the loan.
12 There is either one or the other. Either you have
13 drawn down the loan and there is a loan account for
14 which this money is to be lodged into, or there is a
15 facility letter which offers you the facility of a
16 loan. But once you've drawn down the loan, there now
17 exists a bridging loan account?

18 A. Mm-hmm.

19 117 Q. For you to be able to lodge the €15,000 to any account,
20 there must have been a debit in existence, in other
21 words, the monies must have been drawn down?

22 A. Yes.

23 118 Q. So it would appear from the letter, worded not perhaps
24 as Ms. Dillon would prefer or like, there is clear
25 evidence from that letter that a sum from a deposit
26 account, which can only ever exist in a credit, you
27 can't have - in bank you cannot have a deposit account
28 except in credit. You can have a zero credit or - but
29 you can't have a minus.

30 .

1 There was money withdrawn from a credit account, your
2 deposit account, in the sum of ú15,000, and lodged to
3 another account described by Mr. Delany as a bridging
4 loan account --

5 A. Mm-hmm.

6 119 Q. -- which meant that there had to be a debit, a loan
7 drawn down for it to be lodged to.

8 A. Mm-hmm.

9 120 Q. So, therefore, it would seem to accord with your view -
10 with your evidence that you had availed of the facility
11 for some period of time, made the decision you made, as
12 we know from the evidence you've given yesterday, and
13 even from the contents in paragraph 2 of Mr. Delany's
14 letter, wished not to bear the burden of the full 13
15 percent, and therefore cleared off the loan, the
16 bridging loan account?

17 A. That seems a reasonable assessment. I am not a banker.

18 It seemed a reasonable outline that you have given.

19 .

20 In addition to that, if I - I would say to you that the
21 only accounts that - we haven't been given a copy from
22 the bank of the bridging loan account, but anything
23 that we've been given, it doesn't go back any further
24 than '74. The first one on '74 on that deposit account
25 of Raphael Patrick and Patrick, shows it's December of
26 1974, and it shows that the balance at that stage is
27 2347, which --

28 121 Q. Means the 15 --

29 A. Confirms that the 15 had gone and that was it. It
30 wasn't anywhere else.

1 122 Q. Well, I didn't know what your deposit account

2 statements looked like --

3 A. That's what it says, as presented by the bank to us.

4 123 Q. I am sure that the Chairman has had the opportunity to

5 read all of that stuff.

6 .

7 But it does appear, certainly, from Mr. Delany's

8 letter, that there was a deposit account with

9 ú17,559.50 in it, and as you just indicated to the

10 Chairman, from the accounts that still exist, that you

11 now have, which obviously would have been well in

12 existence in August of '74, when Mr. Delany was doing

13 this, but from what the records can now show, it shows

14 that that deposit account had been reduced to the sum

15 of ú2,559, in other words, the 15 has been taken out?

16 A. Whatever - it would be reduced to ú2,347.15. The

17 15,000 was gone.

18 124 Q. Was gone. And the bank - the alternative situation

19 would be that there is another ú15,000 of yours

20 somewhere that the bank have kept to their benefit,

21 never to tell you ever since. You have enough trouble

22 without me suggesting more.

23 .

24 But the bottom line of it, as I say --

25 A. I don't think I have a problem in the world --

26 125 Q. Unfortunate phrase. Unfortunate phrase on my part.

27 .

28 But as I say, the evidence of the directors of Oakpark

29 is that they always understood that you had paid. It

30 would appear from this, that the loan - bank bridging

1 facility did exist and was subsequently cleared. So
2 such documentation as does exist this many years later
3 supports that?

4 A. Precisely.

5 126 Q. Then if I can just go to the next topic.

6 .

7 Yesterday we were talking about roods and perches and
8 all the rest of it for quite a while.

9 .

10 Overnight I had the opportunity to figure out this 40
11 perches and one rood and four rood and one acre. This
12 was all news to me.

13 .

14 But the thing I would like to draw your attention to,
15 in relation to it, is that Ms. Dillon has identified
16 the initial deed on page 3010, and there is - and that
17 talks about one acre, no roods, 27 perches.

18 .

19 Then there is a Deed of Rectification, which is at page
20 3017, which talks about one acre, one rood and 21
21 perches.

22 .

23 There is then the letter, which is at page 4006 from
24 the Land Registry, and that identifies that in relation
25 to the deed itself in February of - the original deed
26 in February of 1975, that that the map annexed with
27 that actually would contain, if one was to measure it
28 off the map annexed, one acre, 0 roods and one perch.

29 .

30 So what you have was an amalgam of three documents, all

1 with different numbers. But as I understand your
2 evidence to be, it's that you bought something with a
3 ditch around it, and it didn't matter whether it was a
4 rood, a perch or a rod, but that's what you were
5 buying.

6 .
7 I think, if one does the map of it, where the 34
8 perches comes from, is that is that one has to --
9 between the deed, which is 1027, and the actual 1 acre,
10 one rood, 21, the differential between the 27 perches
11 and the 21 perchs gives you six. That's where the 34
12 perches come in. But it's less than a quarter of an
13 acre, which is something that already had a defined
14 boundary.

15 .
16 Of significance, in relation to that, it would appear,
17 Mr. Burke, that when the deed was lodged with the Land
18 Registry, and when you actually executed the deed,
19 there was no Certificate of Area at the date of the
20 original transfer in 1975, because when one looks at
21 the letter from the Land Registry in paragraph 2, the
22 area transferred is stated in the Deed of Transfer to
23 be one acre, 0 roods and 27 perches.

24 .
25 So that - and then it goes on to say a Certificate of
26 Area is not enclosed on the map.
27 .
28 So even in the context of what was the position then,
29 the deed then at the one acre, 0 perches - 0 roods and
30 27 perches, even in 1975, that did not actually reflect

1 the true size of what you were getting, which was the
2 field, with the boundary. But nobody identified that
3 at the time, because there was no Certificate of Area
4 actually obtained, which would be the normal practice
5 in conveyancing at that stage. Well, I think most
6 stages. But you would normally have, for the
7 satisfaction of the parties --

8 .

9 MS. DILLON: It's really for Mr. Walsh to interrupt in
10 relation to this.

11 .

12 I don't know where this speech is going, but in
13 fairness to Mr. Burke, if there is a question in it
14 somewhere, and perhaps in fairness to me as well, it
15 could be identified and put to him.

16 .

17 I don't wish to interrupt in any way, but in fairness
18 to Mr. Burke, I don't know quite how he is meant to be
19 following what Mr. Hayden is saying. But I don't see
20 that any question or proposition has yet been put to
21 Mr. Burke arising out of what is at least two and a
22 half pages of transcript.

23 .

24 CHAIRMAN: I have actually been looking at it here on
25 the screen, and it has reached 46 lines. And at this
26 moment in time I haven't heard the question, I haven't
27 heard the interrogative aspect of it yet.

28 .

29 So would you please, please shorten and get to the
30 point.

1

2 127 Q. MR. HAYDEN: Nobody obtained a Certificate of Area on

3 the day of the transfer in 1975. That would appear to

4 be the case?

5 A. Well, I don't know. As I said to the Tribunal,

6 Chairman, yesterday, as far as I am concerned, I bought

7 a field as a willing purchaser from willing sellers.

8 That was the field. Everybody knew what was being

9 done. The field had boundaries on it, of hedges. It

10 was a clear stand-alone piece of property, which I

11 further delineated by lines of trees. And as to what

12 happened with solicitors and Land Registry and

13 everything else, I made a comment about solicitors

14 yesterday and I don't want to repeat it today.

15 128 Q. Well, it's the engineers usually who do the

16 measurement.

17

18 At the end of the day, Mr. Burke, in '75, there was no

19 Certificate of Area. And a Deed of Rectification was

20 perfected in February of 1994, which states, in

21 paragraph 3, at page 3017, that "through inadvertence

22 the entirety of the plot was not transferred"?

23 A. That's the situation, as I understood it, yes.

24 129 Q. So what everybody finally figured out, is that the

25 numbers, as per the original transfer on the map,

26 didn't reflect what everybody thought the agreed

27 transfer was, there was no difficulty, all parties

28 confirmed that, and a Deed of Rectification saying due

29 to inadvertence, be it the solicitors or engineers or

30 whoever measured it, or whatever, it was rectified.

1 And the point I made is that that error was not
2 identified until '94, because there was no deed, there
3 was no Certificate of Area obtained in 1975 when the
4 transfer was initially put in train. And had it been,
5 the numbers would have been amended, or the map would
6 have - or the numbers on the deed would have been
7 amended accordingly?

8 A. If that's the procedure, I accept what you are saying.

9 130 Q. In relation to the evidence of donations, I think you
10 did indicate over the years that donations were
11 furnished to you on behalf of the Brennan and McGowan
12 companies?

13 A. Yes, at election times, yes.

14 131 Q. And you weren't aware of, or did you know Mr. Ottiwell
15 at all?

16 A. I met him a number of times.

17 132 Q. Yes. In relation to the monies that you would have
18 received from the Brennan and McGowan companies, you've
19 heard the evidence of Mr. McGowan. How did you get the
20 money off - who gave it to you?

21 A. My understanding of this - I got the - I gave the
22 details of my bank accounts to Mr. McGowan --

23 133 Q. These are - I understand the - I know the transfers. I
24 am talking about the annual sums?

25 A. There were no annual sums. There were no annual sums.
26 The money that I got from Mr. McGowan or Mr. Brennan
27 would have been through General Elections, at the time
28 of General Elections, to help with General Elections.

29 134 Q. That's what I meant.

30 A. They are not annual sums. They were at the time of

1 General Elections or local elections, and that's the
2 scenario. There was no such a thing as an annual sum.

3 135 Q. You are quite right. I mean, over the years, I think
4 would be a more accurate way of putting it. It would
5 have been given to you in the context of events pending
6 local elections, General Elections, or whatever was
7 needed in the context of what was coming through?

8 A. Precisely.

9 136 Q. But you've heard the evidence of - the Chairman has to
10 make his decision on that.

11 .

12 Certainly, there were monies - some monies paid over
13 the years for an event or events, be it --

14 A. At elections, and then I received others, the donation,
15 the political donations that are on the record here,
16 and the bulk of that is still remaining.

17 137 Q. Yes. The Chairman has heard the evidence in relation
18 to that.

19 .

20 The only matter - Mr. McGowan has no recollection of
21 being given the details in relation to what bank
22 account for those latter transfers in relation to the
23 matter?

24 A. That's not what he said in the witness-box. He said -
25 I would have given him the details in relation to
26 Jersey, but he would not have had the - he did not
27 recall receiving the details for the Isle of Man.

28 138 Q. Yes.

29 A. My clear recollection of the situation is, then, that I
30 gave the details of the accounts to him.

1 139 Q. That's what I said. He has no recollection of it. I
2 am not putting it any stronger than that. My
3 instructions are that he has no recollection of that
4 event. And the Chairman has his evidence in - such as
5 his recollection - has his evidence of that.

6 .
7 Sorry, Sir. Thank you, Sir.

8 .
9 CHAIRMAN: Thank you. Mr. Walsh?

10 .
11 MS. DILLON: If you were going to take a short break
12 this morning, it might be an appropriate time to take
13 it, Sir, just before Mr. Walsh --

14 .
15 CHAIRMAN: 12 noon.

16 .
17 THE TRIBUNAL THEN ADJOURNED FOR A SHORT RECESS AND
18 RESUMED AGAIN AS FOLLOWS:

19 .
20 MR. WALSH: With your permission, Sir, I think I'll
21 proceed with my cross-examination of Mr. Burke.

22 .
23 CHAIRMAN: Certainly.

24 .
25 THE WITNESS WAS THEN EXAMINED BY MR. WALSH AS FOLLOWS:

26 .
27 140 Q. MR. WALSH: Mr. Burke, I want to ask you a number of
28 questions in this Brennan and McGowan Module. But
29 before that, just a couple of introductory questions.

30 .

1 I think this Tribunal was established legally by an
2 instrument from the Minister for the Environment on the
3 4th of November, 1977. Isn't that correct?

4 A. That's correct.

5 141 Q. And it had been flagged by debates in Dail Eireann
6 shortly before that, isn't that correct?

7 A. That's correct.

8 142 Q. And after the appointment of the Flood Tribunal, what
9 did you do in relation to your ministerial position and
10 your TD seat in North Dublin?

11 A. Well, prior to the actual resolution being passed in
12 the Dail, it was made clear by the Government that it
13 was the intention to establish a tribunal. And I felt
14 that as there were serious matters going to be
15 discussed, and I was going to take all of my political
16 - all of my time to fully cooperate with the
17 forthcoming tribunal, and I wanted to clear my name
18 fully, I felt that I should resign my ministry. And
19 also, I felt that it was appropriate for me to resign
20 from the Dail as well, so that I could concentrate all
21 of my efforts on clearing my name from the allegations
22 that have been made.

23 143 Q. And I think you are referred to in the Terms of
24 Reference by name in one place as well. Isn't that
25 correct?

26 A. I think at least once, yes.

27 144 Q. And since you retired, what efforts - in a very summary
28 manner, what efforts did you make to assemble
29 documentation and so on to assist the Tribunal?

30 A. Well, I've gone through bank records, gone through

1 approaches to banks. I've gone through all my own
2 personal records and files and answered Discovery
3 Orders, signed consent documents for the Tribunal.
4 There were - they dealt - I dealt with my solicitors
5 practically on a daily basis. I responded to literally
6 hundreds and hundreds of letters from the Tribunal in
7 various queries that they asked of myself or my
8 family's personal affairs, and tried to cooperate in a
9 general way.

10 .

11 As well as that - I think the Tribunal is now sitting,
12 what, 325 days, I suppose, of that, 300 of them would
13 have been in some way directly or indirectly related to
14 myself, and I would have been reading the transcripts
15 and keeping in touch with what was going on.

16 .

17 So it's been a full four years of my life.

18 145 Q. Was there any time to do anything else during that four
19 years?

20 A. Well, obviously the occasional summer holiday and
21 things like that, and the occasional game of golf. But
22 my life has been complete in trying to cooperate to the
23 best I could, and the best I can with the Tribunal.
24 And I've been here, of course, in the Tribunal. This
25 is my fourth time back.

26 146 Q. I think you prepared a ledger to assist the Tribunal,
27 which is a large accountancy book with many columns of
28 analysis. And you showed, as best you could, where the
29 money - where your private money, your political funds
30 went from bank to bank, and in what amounts, and what

1 lodgements were made, so on, over the years?

2 A. I did that and made it available to - I brought it to
3 the attention of the Tribunal on private interview --

4 147 Q. I think that was May 1999?

5 A. May 1999. And then I made it available - I was asked
6 for a copy of it, and I made it available to the
7 Tribunal, to assist them in their work as well.

8 .

9 That was quite a detailed document that was prepared,
10 really, for the accounts.

11 148 Q. You understood they wanted to see everything for the
12 purpose of exclusion, if nothing else?

13 A. That's precisely it.

14 149 Q. And how many consents do you recall signing or
15 authorities did you give for searches of banks on a
16 worldwide basis?

17 A. I understand there are approximately 20 individual
18 consents in my own name, my wife's name and family.
19 And then there was one global consent given, which
20 included a consent to something like 98 to 100
21 institutions, financial institutions, banks, building
22 societies, stockbrokers, everything and anything
23 throughout this country.

24 .

25 I also gave worldwide consents to the Tribunal, at
26 their request, worldwide consents. On top of that, of
27 course, I also made individual attempts myself in
28 relation to the banks, the Allied Irish Banks and the
29 Bank of Ireland.

30 150 Q. And when you were successful in those attempts at

1 securing records, what did you do with the records with
2 reference to the Tribunal?

3 A. Well, they were forwarded to the Tribunal, at the
4 request of the Tribunal, at different times.

5 .
6 Unfortunately, I didn't get the cooperation that I
7 would require from the financial institutions at all
8 times.

9 151 Q. Now, you mentioned that this is the fourth time that
10 you've been in evidence before the Tribunal. Have you
11 made yourself available at all times whenever the
12 Tribunal requested you to be here?

13 A. I tried to fully cooperate with the Tribunal in every
14 way I possibly could.

15 152 Q. And you've never been involved in any court litigation
16 against the Sole Member of the Tribunal, isn't that
17 correct?

18 A. No, I made the judgement that - at the very outset of
19 the Tribunal that I was going to cooperate in every
20 possible way, and different people have different views
21 as to how cooperation - with the Tribunal and exercise
22 their rights to go to court, et cetera. I never
23 exercised my right in any case in relation to going to
24 court. I just wanted to cooperate and get this phase
25 of my life over and get on with the rest of my life.

26 153 Q. Yes. Now, I just want to move on to talk about your
27 house at Briargate, and just one short question on
28 Briargate.

29 .
30 Ms. Dillon led evidence yesterday about a document. I

1 think it was at page 4479, where there was a reference
2 to Oakpark accounts, and it said: "The plot of land
3 was given by the directors in lieu of sums due by them
4 in respect of professional services."

5 .
6 And they were talking about Coleman's land.

7 .
8 What professional services do you understand that
9 that's a reference to?

10 A. That would refer to myself and my professional services
11 as an estate agent for the large volume of houses that
12 I was selling for them in Oakpark, and that was done -
13 it was set against fees that I was due for my estate
14 agency work in Oakpark - against Oakpark in River
15 Valley and the other sites in Swords, but mainly River
16 Valley.

17 154 Q. If you just turn to the question of elections.

18 .
19 Have you any idea of the year, the first election you
20 were in and the last election you were in? And can you
21 just very briefly tell us the nature of the elections
22 and the date of the elections that you were involved
23 in?

24 A. Well, my first - well, I was involved in elections with
25 my father, obviously, over the years, in assisting him.
26 But my first election in - where I was a candidate
27 myself was in June of 1967. My first General Election
28 campaign was --

29 155 Q. I think June '67 was a local election?

30 A. It was a local election, that's right. The first

1 General Election campaign I was involved in was in
2 February of 1973. That's when I first stood for the
3 Dail and was first elected.

4 156 Q. I think you described that in detail yesterday or the
5 day before.

6 .
7 When was the next election, that was '73. When was the
8 next one after that?

9 A. The next one was June of '74, which was a local
10 election in June of '74.

11 157 Q. And was that throughout the country at that time?

12 A. It would have been a countrywide election, but I was
13 standing in for Dublin County Council.

14 158 Q. And how long does the campaign for one of those general
15 local elections take?

16 A. Well, local elections take longer, because you know a
17 year in advance that the local election is coming, so
18 it's an on-going thing over a series of months. The
19 General Elections can vary from time to time, depending
20 on the speed of the election, is it a quickly called
21 election or is it one that you know is coming, has to
22 come, because they are coming near the end of a
23 five-year term, and then you would be preparing for a
24 number of months. But a local election you know
25 definitely is coming and you would be - you would be
26 working at it for months.

27 159 Q. When you are working for one of those local elections
28 that you know in advance when the polling is going to
29 take place, are you dealing only with your own
30 constituency or with neighbouring constituencies, or do

1 you deal sometimes on a nationwide basis?

2 A. Well, I would be dealing, because it was - if I may
3 modestly say so, Chairman, I was the senior member of
4 the party and would have been involved - at one stage -
5 a couple of times I was Minister for the Environment,
6 and I was also Spokesman on the Environment, and a
7 member of the National Executive. And at one stage I
8 was Chairman of the Election Committee of - National
9 Election Committee of Fianna Fail.

10 .

11 So I would have been involved on a national, as well as
12 a local basis.

13 160 Q. I see. That's the 1974 local elections. A general
14 election, then, in 1977, is that right?

15 A. Yes. I should clarify, that in 1974 I wouldn't have
16 been as senior in the party as I was later on.

17 .

18 In 1977 there was the June General Election of 1977.

19 161 Q. Yes. When was the next election after that, then?

20 A. The next one after that, that I stood in, was in 1981,
21 in June, a General Election of 1981.

22 162 Q. Yes. And then, I think, there was two elections the
23 next year in 1982, is that correct?

24 A. We had the three of them together. There was the June,
25 and then there was a February 1982 and November '82 --

26 163 Q. Yes.

27 A. -- General Elections. They were both surprise
28 elections.

29 164 Q. And reference has already been made to the 1985 local
30 elections on a number of occasions. They were held

1 when in 1985?

2 A. On the 20th of June, 1985. They were held nationwide

3 in all of the constituencies. I have the results

4 document here with me. It's like the Bible.

5 165 Q. What's that Bible you are referring to?

6 A. I beg your pardon?

7 166 Q. What's in that book that you are referring to there?

8 A. It's the Department of the Environment local elections

9 - 1985 election results, and transfers of votes in

10 respect of each County and County Borough Council. And

11 election statistics relating to all Local Authorities

12 for the 20th of June, 1985, election.

13 .

14 I'll submit it to the Tribunal to help them with their

15 records --

16 .

17 CHAIRMAN: The answer to that is, "No thanks."

18 A. There is some very interesting information in it,

19 Chairman.

20 .

21 CHAIRMAN: Thank you very much. We have enough to do

22 on that, than to read the local elections --

23 A. It shows I got nearly two quotas in June '85.

24 .

25 CHAIRMAN: We'll just pursue matters which are germane

26 to the Terms of Reference.

27 .

28 167 Q. MR. WALSH: In 1987 there was another General Election

29 in February, is that right?

30 A. That's correct, yes.

1 168 Q. And there was - the European Election, I think, in 1989
2 at some stage?

3 A. Yes. There had also been a local - a European Election
4 in 1979, for which I was Director of Elections in the
5 Dublin area. But the 1989 was a General Election and a
6 European Election held at the same time.

7 169 Q. Yes.

8 A. In June of '89.

9 170 Q. How extensive was that campaign?

10 A. Well, it was a huge campaign. In 1989 - it came all of
11 a sudden. Nobody was expecting it. And it arose about
12 an issue which is the subject matter of another
13 Tribunal, the Lindsay Tribunal.

14 .

15 And we had just been two years in office, nobody was
16 expecting a General Election, suddenly a General
17 Election is called, and it was a fast election, but a
18 hugely extensive election.

19 171 Q. And the next General Election was when?

20 A. November 1992.

21 172 Q. What was the next election after that?

22 A. The next one was the European in '94, but I wasn't a
23 candidate in that, but I was deeply involved in it.

24 173 Q. And then I think there was a General Election in 1997,
25 which was your last election?

26 A. It was my final election in June of '97, at which stage
27 I was appointed Minister for Foreign Affairs, following
28 on that.

29 174 Q. And did you have - in terms of scale, was your
30 political operation a large one or a small one?

1 A. Well, I had a very extensive political operation. It
2 was both locally, and then I was involved nationally
3 very much. In between all of those - those other
4 elections, I should have said to you that unfortunately
5 there would have been a series of bi-elections around
6 the country practically on an annual basis, sometimes
7 more, where colleagues would have died and elections
8 were held, and being a Deputy or a Minister or
9 spokesman on behalf of the Party, I would be expected
10 to go and spend weeks working in those bi-elections
11 around the country.

12 .

13 As far as the June election was concerned, I would have
14 had a role in that as well.

15 175 Q. Yes. Now, I want to turn on to a different topic now,

16 Mr. Burke.

17 .

18 You will recall that when you were last in the
19 witness-box Mr. Hanratty was asking you, in the
20 Financial Module, about various incomes that you had
21 privately and from political funding, political
22 donations, contributions on the one hand and then
23 private expenditure and political expenditure on the
24 other hand.

25 .

26 Now, he had your records. And he had put a proposition
27 to you that, in fact, you didn't have enough private
28 income to support your private lifestyle, and that you
29 obtained it from your political donations.

30 .

1 Your accountant has gone through the records and
2 prepared a very detailed analysis for the period 1992
3 to 1997, isn't that correct?

4 A. That is correct --

5 176 Q. And that was submitted to Mr. Hanratty on the last
6 occasion, isn't that correct?

7 A. That's correct.

8 177 Q. I don't want to go into any of the details now, but
9 what is the summary result of your accountant's
10 analysis of the situation in the period 1992 to 1997 in
11 terms of - did you have enough private income to
12 support your private lifestyle?

13 A. Well, in the period involved, and using the
14 documentation that the Tribunal has made available to
15 us, just an analysis of it, it showed that my personal
16 income at that time, between salaries, pensions, and
17 director's fees for a company - an international
18 company that I became a director of, and other income
19 --

20 178 Q. No, Mr. Burke, I think the Tribunal have the figures,
21 but I just want to know the actual summary of the
22 result and of the analysis.

23 .
24 Was there enough private income to support your private
25 lifestyle?

26 A. The summary of the analysis is that not only was there
27 enough to support my private lifestyle, but that out of
28 those funds I was subsidising my political life.

29 179 Q. Yes. I see.

30 .

1 Now, I want to turn on to a different topic now, and
2 that is the estate agency/auctioneering business
3 relationship you had with the Brennan and McGowan group
4 of companies, to include Oakpark, which I would link in
5 with the Brennan and McGowan group of companies, under
6 that umbrella.

7 .

8 You've given evidence that you were the estate agent,
9 and you were selling new houses in estates, varying in
10 size from 50 houses to more than 1,000 houses. Isn't
11 that correct?

12 A. That's correct.

13 180 Q. What sort of work was involved, and how many days a
14 week would you be involved in that work?

15 A. I was - at the earlier stage in my career in setting up
16 the procedures, I would have been very deeply involved
17 in working in the show houses, on Saturday, Sundays,
18 preparing the show houses, first of all, when a project
19 was undertaken. I would be manning the show houses on
20 Saturdays, Sundays, showing the house around - showing
21 it to prospective buyers, showing them around the
22 sites, accepting deposits on behalf of the builders,
23 taking booking deposits, passing them on to the
24 builders, going through the records with the builders
25 of the amount of deposit paid, how far, passing that on
26 through the builders, and in turn through the
27 solicitors.

28 .

29 I had my secretary involved in it, who was very
30 efficient at the time. She did a lot of it. And I had

1 family members who also helped on weekends when we had
2 a number of show houses going at the one time, that we
3 would all be manning it.

4 .

5 Then during the week and during the - after the
6 weekends of working the show houses, it would be
7 follow-up, people who would - who had seen the show
8 house, interested in a house, would indicate that they
9 would want to come back midweek to have a further look.

10 I would have to meet them on the sites, all of that
11 type of work went on.

12 181 Q. Yes. Now, the next topic I want to ask you about is,
13 can you compare how you treated your income from those
14 professional fees with how you treated the political
15 funding or political contributions you received?

16 A. Yes. Well, I took - on those professional fees, I
17 would have, as I already explained here to the Chairman
18 the other day here, they would have been treated as
19 directors' loans. And then when the company was wound
20 up, that was all sorted in relation to Revenue, et
21 cetera.

22 .

23 With the political subs that I got from Brennan and
24 McGowan, those funds were lodged overseas, and my
25 understanding is - which we don't have to go into in
26 great detail here, my understanding, as I've outlined
27 to the Tribunal in relation to it, but the sums were
28 there, and they were political funds, and the sums -
29 the vast bulk of that sum is still there.

30 .

1 So I didn't use it in relation to my day-to-day life.
2 I would have used some of it, and interest on it, and
3 some small portion of the capital would have been used
4 for my political funds. But the vast bulk of the fund
5 remains there to this day, as distinct from my fees'
6 income, which I would have used on day-to-day carrying
7 out of my lifestyle.

8 182 Q. Yes. Now, I want to move to another topic now,
9 Mr. Burke.

10 .
11 You recall that some day this week, I think, Ms. Dillon
12 suggested to you on a number of occasions that the
13 evidence you gave about the fundraising for the major
14 sums was lodged off-shore, which you received from
15 Brennan and McGowan companies, that your evidence
16 concerning that was significantly the same as the
17 evidence of Joe McGowan, which he gave on Day 144, I
18 think is the day.

19 .
20 Now, I just want to ask you, before Day 144 what was
21 your knowledge and understanding of that - the source
22 of those funds?

23 A. My general knowledge and understanding was that they
24 were funds that had been raised on my behalf, mainly in
25 the UK, and that was the understanding that I had right
26 down through the years, mainly from Mr. McGowan.

27 183 Q. Yes. I think on Day 144, it wasn't a normal day's
28 evidence, as we know from the transcript. You read the
29 evidence afterwards from the transcript, is that
30 correct?

1 A. I did, yes. I was amazed with some of it, to be honest

2 with you, but I read it, yes.

3 184 Q. And concerning the details that were given by

4 Mr. McGowan on Day 144, had you any advance knowledge

5 of the detail that he had given?

6 A. No, I had never had, and I was amazed with some of the

7 statements made by Mr. McGowan in the box that day in

8 relation, for example, to targets. No such thing ever

9 happened. In relation to some of the details that he

10 gave in the box, I was just quite flabbergasted by

11 them.

12 185 Q. I think you were questioned in detail about these

13 matters by Mr. Hanratty on Day 244 and Day 245. I just

14 want to draw your attention to a number of answers you

15 gave on that day.

16 .

17 The first answer I want to draw your attention to is on

18 Day 244, page 42 of the transcript. It seems to be

19 question 88. And it's part of a series of questions

20 dealing with the fundraising elections and what you

21 knew about the fundraising.

22 .

23 And then at question 88 Mr. Hanratty says:

24 .

25 "Question: Am I correct in thinking that the sum total

26 of your knowledge or information as to the source of

27 this money is the evidence which Mr. McGowan gave to

28 the Tribunal?

29 Answer: As he explained to the Tribunal, and in

30 general terms that would have been my own knowledge of

1 it as well."

2 .

3 Then you go on to say you were very pleased to have

4 received the money.

5 .

6 Is that a fair summary of your memory, your

7 recollection and your evidence?

8 A. That's the situation. And I think I made it clear at

9 all times, when answering during those days, 244 and

10 245, those particular days that I was in the box being

11 queried on it, that I gave my understanding of the

12 situation as I had got it from - as I had seen it from

13 Mr. McGowan in his of 144, yes.

14 186 Q. Mr. Hanratty asked a similar question at question 88 -

15 question 89:

16 .

17 "Question: But what I want to know is, am I correct or

18 incorrect in saying that the totality of your knowledge

19 as to where it came from, came from Mr. McGowan's

20 evidence? Or did you obtain information from

21 Mr. McGowan at the time as to the source of this money?

22 Answer: No, I didn't obtain evidence at the time,

23 other than in the general sense of, that dinners were

24 being held and funds were being raised for me."

25 .

26 Is that - that's your understanding? I think you said

27 something similar to Ms. Dillon the other day?

28 A. That was my understanding, yes.

29 187 Q. And there are a series of other transcript references,

30 such as in answer to question number 28, which is at

1 page 27 of the transcript. You said in relation to the
2 €50,000 lodgement:

3 "Answer: That's a lodgement which arose from
4 fundraising that was carried out on my behalf, which
5 was explained to the Tribunal."

6 .

7 And again on question 33, you again say you can't
8 expand on the accounts or the monies, you know nothing
9 about them, other than what was explained to the
10 Tribunal by Mr. McGowan.

11 .

12 There was a similar reference in question 51, which is
13 at page 31.

14 .

15 "Question: What did you understand was the source of
16 these monies, in terms of where it came from and from
17 whom it came?"

18 .

19 As has been explained to the Tribunal by
20 Mr. McGowan when he was in the box, various fundraisers
21 were raised on your behalf.

22 .

23 Question 59, page 37:

24 "Question: Did Mr. McGowan give you any information as
25 to the detail in relation to the €50,000?

26 Answer: It yielded that, plus other sums in a general
27 way, but I was never involved in the fundraising. I
28 was never present at the fundraising efforts. But he
29 has given all of those details to the Tribunal, in
30 evidence to the Tribunal."

1 .

2 And then question 60:

3 "Question: But my question is, did he give you any

4 information as to the nature of the fundraising efforts

5 that he became involved in?

6 Answer: Just in a general way."

7 .

8 And then at - a series of questions on page 39, where

9 Mr. Hanratty is inquiring about your knowledge of other

10 directors of Brennan and McGowan's group of companies.

11 And question 74:

12 .

13 "Question: Is it possible so far as you are aware,

14 that all the money came from executives of Brennan and

15 McGowan?

16 Answer: I can't answer you that.

17 Question: Does that mean you were never aware?

18 Answer: I can just refer you to Mr. McGowan's evidence

19 in the box."

20 .

21 Were you referring to Day 144 at that stage?

22 A. I was referring to 144. That was the day Mr. McGowan

23 was in the box.

24 188 Q. "Answer: I can't answer any further than that. What

25 was going on and as to the detail of it, I can't assist

26 you."

27 .

28 There are similar references along that vein in Day

29 245, which I won't go into. Isn't that correct?

30 A. Yes. I gave, in evidence to the Chairman, my

1 understanding of the situation. In the main my
2 understanding of it, that the detail of it came from
3 Mr. McGowan's evidence in the box. I had no other
4 understanding of it.

5 189 Q. Now, I just want to ask you very briefly about Allied
6 Irish Banks.

7 .
8 What accounts did you have with them, and where? And
9 can you tell me about the searches you made with them,
10 and the results of those searches?

11 A. Well, soon after the Tribunal was established I went to
12 AIB Headquarters and told them that - obviously, they
13 had been aware that the Tribunal had been established,
14 and I wanted to get full cooperation with the Tribunal.

15 .
16 The matters that were at that time being investigated
17 were pre '85, so the accounts wouldn't have been with
18 them at that stage - or post '85, post June of '85.

19 But I wanted to get - but I wanted to get track of the
20 money into the Jersey account.

21 .
22 I informed them that I had had accounts in Bruton
23 Street, and informed them that I had accounts in the
24 Isle of Man. I asked them to get the records for me.

25 190 Q. Did they get the records for you?

26 A. No, of course they did not get the records for me.
27 They said that they could find nothing.

28 .
29 And of course I knew I had had the accounts, and it was
30 only after continuous efforts that I then fortunately

1 found, as I was going through documents for the Revenue
2 as well, I found documents which assisted me in
3 relation to the Isle of Man. I was able to go back to
4 them with the document, trace it through the Isle of
5 Man, which in turn was a help to trigger the situation
6 which showed that the - there was a link from there
7 into Bruton Street, and it had come from Bruton Street.

8 .
9 So I had to drive it all the way myself, rather than
10 seeking the cooperation of the AIB, so much so that
11 when they - the Chairman will recall, you will recall,
12 Mr. Walsh, that when AIB came in to the box here, they
13 denied any knowledge of Bruton Street. And it was -
14 and we even had Mr. McHale, the man that I had given
15 the name to, to help the Tribunal, trace things, come
16 in and say, "No, no accounts" et cetera. But we
17 insist, and I insisted, through my legal team, as you
18 recall, we kept after it.

19 .
20 And you raised it here in the Tribunal, and I followed
21 it - you followed it, my solicitor followed it with
22 letters to the Tribunal and letters to AIB. And they
23 eventually found accounts and found that what I had
24 been saying was accurate. And of course, as you know,
25 they had to come back in here and apologise to the
26 Tribunal in relation to it.

27 .
28 It is one of the sources of distress to me,
29 Mr. Chairman. I understand that you have no control
30 over media reports, but it is a considerable distress

1 to me that the situation arises that you - things are
2 said, you know, "Another bank account discovered".
3 .

4 I have been in this box for the last four years trying
5 to cooperate in every way, tried to find accounts,
6 tried to reveal the information to you, as much as I
7 possibly can find, and if I don't get the cooperation
8 of the banks, and if you don't get the cooperation of
9 the banks, it's not my fault. I am trying, and I tried
10 as hard as I possibly could. And thankfully, we were
11 able to trace the trail.

12 191 Q. Yes. I see.

13 .
14 Now, I want to turn to the Bank of Ireland. I think
15 you had a number of accounts with them in Whitehall.
16 And they set up what you call a subsidiary account in
17 Manchester, is that correct?

18 A. Yes. That's the situation there. And again, as I
19 outlined to the Chairman, I think the first day I was
20 in the box on this occasion, last Friday, the situation
21 there was that - it may have been Tuesday, now that I
22 mention it.

23 .
24 When the Terms of Reference were extended, of the
25 Tribunal, in July of '98, I went to the Bank of Ireland
26 in Whitehall and gave them a letter asking them, which
27 is on the record here, I won't delay you by going
28 through it again, I've quoted it through already; I
29 asked them to find for me the details of my accounts
30 from the time that I opened them, with them, going back

1 as far as possible. And also to find any
2 correspondence in relation to it.

3 .

4 I was given some bits and pieces that weren't relevant
5 to the period that was under discussion at the time,
6 the '85 period, which would have been relevant later
7 on.

8 .

9 What happened then was I gave consents to the Tribunal
10 to go - I had given consents earlier to the Tribunal to
11 go back as far as '85, at their request. I then gave
12 consents at further times to go search through Bank of
13 Ireland anywhere in the country or worldwide.

14 .

15 The situation then arose that in May last they came
16 back to the Tribunal with some documentation, which the
17 Tribunal, in their cooperation with us, at our request,
18 they forwarded it to us. And then that was - that was
19 May. Then in June they came back to the Tribunal,
20 which the Tribunal sent on to us, the documentation,
21 showing a further account, which was the Manchester
22 account.

23 .

24 And then again on Monday of this week, and I understand
25 from what was said in the Tribunal here, that the
26 Tribunal team got it at the end of last week from the
27 Bank of Ireland. They came with further documentation,
28 which referred to an account held in Belfast in 1971.

29 .

30 The position is, and I want to make it absolutely

1 clear, that I did not get the cooperation of the Bank
2 of Ireland in relation to the requests I made. And
3 it's quite obvious that the Tribunal didn't get the
4 cooperation, because it was being given in dribs and
5 drabs over months, and only - over years, and only up
6 to last week the balance of it came back.

7 .

8 So again it's this thing of "New accounts discovered on
9 - in relation to Burke". I can't be responsible for
10 what journalists write, and neither can you, Chairman,
11 but I do find it difficult to take that after four
12 years of concentrated effort by me, and the fact that
13 I've asked the institutions and pressured them for
14 documentation, that even at this late day, after four
15 years of the establishment of the Tribunal, they still
16 only came with documents last week to us, which I got
17 on Monday night before I came in here to give evidence
18 on Tuesday.

19 192 Q. Yes. Are you trying to hide any of these accounts --

20 A. Absolutely not. I went to the Bank of Ireland and gave
21 them a letter saying, "Please give us - I was a former
22 customer of yours. Please, will you give me the
23 details of any accounts, and also correspondence that
24 you have relating to my accounts?"

25 .

26 I wanted everything to be put on the table, because -
27 from my point of view I have nothing to hide in
28 relation to any allegation of corruption in relation to
29 this stuff, and I wanted it up on the table, so that we
30 could handle it and get it cleared, and so that I could

1 get on with the rest of my life. That's what I want to
2 do.

3 193 Q. I think that's an authority that you just referred to.
4 That was sometime in 1998?

5 A. It was 1998, September 1998 I went to them, and
6 November 2001 that they come with the balance of the
7 information.

8 194 Q. Now, just in specific reference to the Manchester
9 account. I just want to draw your attention to five
10 letters contained in the booklet which the Tribunal
11 furnished to us on the 21st or 22nd of June 2000. I am
12 not sure if they have a pagination number.

13 .

14 The first one is page nine in the booklet. It's a
15 letter from the Bank of Ireland in Manchester to the
16 Bank of Ireland in Whitehall.

17 .

18 I am just wondering if Ms. Dillon has a general page
19 reference for that booklet?

20 .

21 MS. DILLON: I don't know. I'll have to see the
22 document.

23 .

24 MR. WALSH: Just a couple of minutes, Sir. I don't
25 think the documents have been circulated. Ms. Dillon
26 is kindly scanning them in, and they will be put up on
27 the screen.

28 .

29 CHAIRMAN: Very good. Would you like to pass on just
30 for a moment, or do you want to stop for a few minutes?

1 .

2 195 Q. MR. WALSH: This will only take seconds. I think the
3 letter is the 9th of December of 1974. And this is the
4 bank in Manchester. It's on page 9 of the general
5 booklet, which was sent in June. It's a letter from
6 the bank returning the deposit book to you. And there
7 is a query there, "Is the account, should it be Raymond
8 or Raphael?" It refers to a lodgement of ú1,350.

9 .

10 We know from the passbook, which Ms. Dillon has put on
11 the circulated documents, that that's the opening
12 lodgement on that deposit account. Isn't that correct?

13 A. That would be correct.

14 196 Q. I think it's up there now on the screen. And it's page
15 9 of the general booklet. And it's from the bank in
16 Manchester to the Manager of the Bank of Ireland,
17 Whitehall. And then it says:

18 .

19 "Attention of the Assistant Manager, deposit account
20 R Burke.

21 .

22 Dear Sir, I refer to our telephone conversation of
23 today, and enclose herewith our deposit book, showing a
24 balance of ú1,350.

25 .

26 You mention the name Raphael on the phone. However,
27 the account is headed up "Raymond". I would be
28 grateful if you would confirm which is the correct
29 name, and also the address of the account holder. I
30 note your remarks regarding reciprocation." Et cetera.

1 .

2 So that's the - that seems to be the opening balance,

3 because on the passbook 1,350 is down as the opening

4 balance. Isn't that right.

5 .

6 MS. DILLON: That document isn't in the circulated

7 documents. It's 5443, just for the transcript.

8 .

9 197 Q. MR. WALSH: Perhaps the next one is as well. It's a

10 letter of the 11th of December, 1974. This time it's

11 from the bank manager - the assistant manager in

12 Whitehall, Mr. Delany. He is replying to that letter

13 to the Manchester bank.

14 .

15 And it's about R Burke, and he says:

16 .

17 "Dear Sir, I am in receipt of your letter of the 9th"

18 --

19 .

20 MS. DILLON: I think this is 5444.

21 .

22 198 Q. MR. WALSH: Thank you very much, Ms. Dillon.

23 .

24 "I am in receipt of your" - sorry, Ms. Dillon is

25 correct. Yes.

26 .

27 "I am in receipt of your letter of the 9th, with

28 enclosure as stated. I wish to confirm that

29 Mr. Burke's christian name is Raphael."

30 .

1 Now, the next letter - there are two letters on the
2 same date, that's the 21st of June of 1976. I don't
3 think they are in the circulated documents. They are
4 at page 100 and 102 of the booklet.
5 .
6 I think - it's impossible to read, because of the
7 darkness of the photocopy, but the one on page 100 is
8 dated the 21st of June, 1976. And it seems to be from
9 the bank in Whitehall, from the manager to the bank in
10 Manchester. It says:
11 .
12 "Dear Manager, I refer to our previous correspondence.
13 The above party" - that's Raphael P Burke - "wishes to
14 make provision for obtaining cash in the event of the
15 threatened strike becoming a reality. In this he
16 requires that you open for him a current account. And
17 I enclose herewith the authority to transfer funds
18 sufficient to meet any cheques he may issue from his
19 book deposit account with you. I also enclose specimen
20 signature card.
21 .
22 Perhaps you could wait until the end of the week before
23 forwarding a cheque book, in the hope that matters will
24 have settled. Otherwise I shall be obliged if you will
25 afford our mutual customer every facility."
26 .
27 Do you remember making provisions for the bank strike
28 at the time?
29 A. I don't specifically. But I didn't - I didn't at the
30 time, until this documentation has been shown to me

1 recently. And when it came available to us in June, I
2 was reminded of it, or in May I was reminded of it. Or
3 June, sorry, June I was reminded of it.

4 199 Q. The other letter, page 102 --

5 A. I had got stung in business in the previous bank strike
6 with insurance premiums, cheques that are bouncing, and
7 I was making, obviously in '76, making sure that
8 business-wise it wasn't going to happen again.

9 200 Q. And the next letter, on page 102, seems to be the same
10 date, and it's: "I would be obliged if you will open a
11 current account and forward a cheque book" - I can't
12 read the rest of it.

13 .

14 MS. DILLON: "At your convenience, please be good
15 enough to transfer from my book deposit funds
16 sufficient to meet any cheques.

17 Many thanks, yours faithfully, RPB."

18 .

19 201 Q. MR. WALSH: That seems to be your Letter of Authority?

20 A. Which would have gone, obviously, with the bank
21 manager's letter.

22 202 Q. Finally, just on that, I think page 94 of that booklet.

23 It's a letter dated, I think the 6th of September,
24 1976. And it seems to be from the manager in Dublin to
25 the manager in Manchester. He encloses the deposit
26 book "in the name of the above, which I shall be
27 obliged if you will have written up to date and
28 returned at your convenience."

29 .

30 Then he goes on to say: "I am obliged to you for the

1 courtesy and facilities extended to our mutual client
2 during the emergency. While it is unlikely the current
3 account will be used, Mr. Burke feels he would like to
4 hold on to the cheque book for the time being anyway."

5 .

6 So that's all you know about the Manchester account and
7 all you've seen?

8 A. I had no recollection of it until these documents were
9 made available to me.

10 203 Q. Now, I think it's on Day 260, the opening of this
11 module by Mr. Hanratty, and he made mention of the
12 Sandyford lands and zoning. What's your knowledge of
13 any of that?

14 A. Well, it was mentioned, and there was - on the day that
15 I was in the box here, and I asked for - if my name
16 appeared anywhere, if documentation was going to be
17 provided to me before questions would be put to me.

18 But the Chairman intervened. There was a discussion
19 and I never saw, since then, to this day, any document
20 in relation to it, other than in the transcripts, where

21 I understand that in relation to the zoning of the
22 lands in Sandyford, that that was done - that portion
23 of land was included in a block of land proposed by the
24 officials of the Local Authority.

25 .

26 I am not sure - I am open to correction on this, I
27 think the block of land was - about 500 acres of land
28 was zoned on the recommendation of officials. I know
29 nothing about it other than that, and I have had no
30 involvement in it, and I don't know - my name was

1 mentioned, and I am sure - I am here now for four days,
2 and I am sure if there was any suggestion anywhere of
3 my involvement in it, I would have been - it would have
4 been put to me by now.

5 .

6 But I had no other involvement.

7 204 Q. I think, just for the record, there were 800 acres, I
8 think is what the paper shows --

9 A. 800 acres were zoned at the recommendation of
10 officials.

11 205 Q. Now, Ms. Dillon touched on the subject of the 1974
12 Garda investigation today.

13 .

14 Did you know of the results of that Garda
15 investigation, back in 1974 or 1975?

16 A. There was eventually a question put into the Dail by,
17 if I recall it, it was John O'Connell at the time,
18 asking the Minister as to the outcome of the inquiry.
19 And it was clarified that there was no further action
20 to be taken. I don't know whether that was '75 or '76.

21 206 Q. I think there was a '73 General Election and Fianna
22 Fail lost that election, and the Fine Gael/Labour
23 Coalition came in and were in Government from 1973
24 until 1977. Isn't that correct?

25 A. That's correct, yes.

26 207 Q. I think at the 1974/'75 period, the Attorney General
27 was the former President of the High Court, Mr. Declan
28 Costello, isn't that correct?

29 A. Yes, that's my recollection of it.

30 208 Q. Nominated by Fine Gael?

1 A. Yes.

2 209 Q. And I think that the DPP had only recently been
3 established, the Office of the DPP, in that the first
4 DPP was Mr. Barnes?

5 A. That's correct, yes.

6 210 Q. And Ms. Dillon has circulated a document today, it's
7 5449. If I could have that document on screen, please.

8 Yes.

9 .

10 Now, if you just scroll up to the top of the letter,
11 please. That seems to be dated the 7th of August,
12 1974, from the Chief Superintendent's Office, Crime
13 Section.

14 .

15 And then it seems to be addressed to the Attorney
16 General. And it's about the number of articles. Then
17 he goes on to say:

18 .

19 "I attach a report, with enclosures referred to
20 therein, on the result of investigations carried out by
21 Detective Inspector Casey and Detective Sergeant Walsh,
22 Central Detective Unit, Dublin Castle.

23 .

24 I agree with them, that the investigation, on a number
25 of aspects, of which I had discussions with them, do
26 not disclose a breach of the criminal law."

27 .

28 Then it's signed "Chief Superintendent, John J Joy."

29 Isn't that correct?

30 A. That's correct, yes.

1 211 Q. When did you first see that letter, or when was it
2 first furnished to you or your legal team?

3 A. Well, we had been looking for it for some considerable
4 time from the legal team of the Tribunal, and I got it
5 in, I think, September we got the file from the legal
6 team.

7 212 Q. I think it was mentioned by Mr. Hanratty that there had
8 been a Garda investigation, isn't that correct?

9 A. It had been mentioned on a number of times by
10 Mr. Hanratty, and in the context of questioning - I
11 took it anyway, and it was reported as being
12 suggestions of some impropriety in relation to it.
13 There were quite scurrilous allegations which had been
14 made. I am not saying by Mr. Hanratty, but he was
15 doing that in the course of the discussions.

16 213 Q. I think the Attorney General's involvement was
17 obviously because the Dail told the Attorney General to
18 do something. That's why the report went back to the
19 Attorney General, isn't that correct?

20 A. I don't know whether the Dail told them or the
21 Government told them. That is what the role of the
22 Attorney General is, yes.

23 214 Q. Now, in the file submitted to us recently by the
24 Tribunal, there is a further letter, which I don't
25 think has got general circulation. My solicitor will
26 hand it in for scanning. It's got a reference GI,
27 which I think is Garda investigation, 1974, 2-2.

28 .

29 MS. DILLON: If Mr. Walsh has any more documents, if he
30 could prepare a bundle of them. It would just be

1 easier for scanning purposes to put them up, because we
2 have to add them to the brief now for circulation
3 purposes.

4 .

5 CHAIRMAN: You say this is the last one?

6 .

7 215 Q. MR. WALSH: This is the last one for scanning. I just
8 thought some of them had been circulated.

9 .

10 Now, if you could just scroll up to the very top of
11 that letter, please.

12 .

13 You see, at the top of the letter, it comes from the
14 Chief Superintendent's Office, Dublin Castle, Crime
15 Section. And the date is the 28th of April, 1975.

16 Isn't that correct?

17 A. That's correct, yes.

18 216 Q. And then it refers again to the article published, and
19 so on.

20 .

21 And then he goes on to say:

22 .

23 "Reference report, dated 7th August, 1974, in relation
24 to the above matter."

25 .

26 I think the 7th of August, 1974, is the date of the
27 last letter, page 5449.

28 A. Mm-hmm.

29 217 Q. Isn't that right?

30 A. That's correct.

1 218 Q. And in the file there is - we received, there are a
2 number of - a large number of statements, and then
3 there is a 35-page summary. I suppose that's the
4 report that's referred to on the 7th of August?

5 A. I assume so, yes.

6 219 Q. Just to go back to finish the letter of the 28th of
7 April, 1975:

8 .

9 "In relation to the above matter, a communication has
10 now been received from the Director of Public
11 Prosecutions, dated the 18th of April, 1975."

12 .

13 Doesn't that suggest that after the Attorney General
14 received the file from the Garda on the 7th of August
15 of 1974 he sent the entire file off to the Director of
16 Public Prosecutions for further investigations or
17 processing?

18 A. Well, the - the role of the DPP that had been
19 established was in relation to - prior to the -
20 Chairman, you will be more familiar with that as a
21 lawyer than I am. But up to that time the Attorney
22 General was the one that decided on prosecutions or
23 otherwise in relation to matters.

24 220 Q. Yes.

25 A. Then the Director of Public Prosecution's office was
26 established. And arising from that, that was -
27 decisions in relation to prosecutions on any matter,
28 since that date on, are matters for the DPP, yes.

29 221 Q. So it seems the file went from the Attorney General's
30 Office to the DPP's Office?

1 A. That's correct.

2 222 Q. And the DPP, then, in conjunction with the Guards, if
3 he so wishes, can further investigate matters?

4 A. Well, they did further investigate, obviously, because
5 they came out to me in relation to the house. And
6 there would have been other queries. There were a
7 considerable number of visits from the Guards raising
8 particular queries and particular points as the years
9 went by. I can't give you month by month.

10 223 Q. So that would be the explanation for the letter from
11 the bank to Inspector Casey in August of 1974?

12 A. They would have come back out to me, obviously, arising
13 from the file having been sent to the Attorney General,
14 and from there on to the DPP, that queries would have
15 arisen in relation to issues. And they - there would
16 have been further information.

17 224 Q. So that's why there was a letter written by the bank to
18 Inspector Casey?

19 A. Yes. And why this thing wasn't dealt with, finalised
20 until the 18th of April 1975.

21 225 Q. Yes. And I think the communication of the DPP dated
22 the 18th of April, 1975, was quoted by the Guards. He
23 says:

24 .
25 "I consider that the very thorough and painstaking
26 Garda investigation has not disclosed evidence
27 warranting a prosecution."

28 .
29 And that's John J Joy?

30 A. That's correct. And of course the thing about that

1 was, it wasn't just an investigation of me, it was an
2 investigation of most of the politicians in the County
3 Dublin area from all political areas at all levels. It
4 was - all heads were investigated at that time.

5 226 Q. There were ministers from cross-Party lines involved?

6 A. There were ministers from all Parties involved in it.

7 227 Q. Yes. Thank you very much, Mr. Burke.

8 .

9 CHAIRMAN: Ms. Dillon.

10 .

11 THE WITNESS WAS THEN RE-EXAMINED BY MS. DILLON AS

12 FOLLOWS:

13 .

14 228 Q. MS. DILLON: Yes, Mr. Burke, arising out of that. Do I

15 understand your evidence to be that on the

16 establishment of this Tribunal, you went to see AIB at

17 their headquarters in connection with obtaining your

18 records?

19 A. I went and spoke to them and asked them to assist me in

20 finding records. Now, at the period in time it

21 wouldn't have been - it would have been prior to the

22 particular period of which the Tribunal was dealing

23 with, because the records in there would have been the

24 period - that --

25 229 Q. If we --

26 A. Yes, I did.

27 230 Q. Now, when did you go to AIB?

28 A. I haven't got the exact date on it, but I went to see

29 Mr. Harvey, Dan Harvey, who was - he was based in

30 Belfast at the time. He was responsible for the

1 overseas operations of the AIB.

2 231 Q. Did you go in 1997 or 1998?

3 A. It could have been at the - it could have been 1998. I

4 can get you the specific date --

5 232 Q. You think it's 1998?

6 A. I think it's 1998, but -- sorry, can I just say to you,

7 I will get the specific date, because I can trace the

8 date of it.

9 233 Q. Fine. We can assume for the moment that it's 1998, and

10 as I understood what you said to Mr. Walsh, is that you

11 told AIB you had accounts at Bruton Street and the Isle

12 of Man?

13 A. Yes.

14 234 Q. When you went to see them, is that right?

15 A. I told them about my accounts overseas, that's right.

16 235 Q. You told them about - what you specifically said,

17 Mr. Walsh, was you told them about accounts at Bruton

18 Street and the Isle of Man?

19 A. That's correct.

20 236 Q. Well, if you told Allied Irish Banks in 1998 that you

21 had accounts in the Isle of Man, why did you wait until

22 the 20th of June, 2000, to tell the Tribunal you had an

23 account at Allied Irish Banks (Isle of Man)?

24 A. No, I told you that I could not - they came back to me.

25 I was trying to make the point. It's exactly the point

26 you are making. I went to them, told them I had

27 accounts, and the AIB told me I had no accounts. I

28 went and fought them, and came into you here in the

29 Tribunal, gave details to you in evidence in relation

30 to things, in relation to accounts, and the AIB were

1 continuing to tell me they couldn't find nothing.

2 .

3 What happened was that I found a document in relation

4 to the Isle of Man, which I then went back to the AIB

5 with, and as a result of that they traced the

6 information that I required, which I then, when I got

7 it, brought it to the attention of the Tribunal.

8 That's the sequence of events.

9 237 Q. Is the factual position this, Mr. Burke, that you

10 believed, in 1998, that you had had an account at

11 Allied Irish Banks in Isle of Man, that you went to see

12 Allied Irish Banks about that. They said they had no

13 records, but you did not disclose that fact or your

14 belief that you had an account in the Isle of Man to

15 the Tribunal until June of 2000?

16 A. The sequence of events is that at the time we were

17 investigating what - what was the subject of the

18 investigation was the Gogarty Module, which was from

19 June of 1985 on. I was trying to get as much

20 information as I told you I have done. I was trying to

21 get as much information to be of benefit to the

22 Tribunal as I could.

23 .

24 When I got the information, I brought it immediately to

25 the attention of the Tribunal. It was for a period way

26 back in '82, which was not relevant to the period of

27 the Gogarty Module, which was '85 on. I tried to

28 cooperate with you in every possible way.

29 238 Q. Did you believe, in 1998, that you had once had an

30 account at Allied Irish Banks Isle of Man?

1 A. Yes.

2 239 Q. When did you first disclose this fact to the Tribunal?

3 A. When I got the details of the account. When I

4 eventually --

5 240 Q. When? Date, please, Mr. Burke.

6 A. Well, I think it's June of 2000, when I got the

7 information in the course of a search in relation to my

8 tax and other affairs. I found this document, I then

9 went back to the bank, got the details of the bank.

10 They carried out this search on my behalf. They found

11 the documentation, gave it to me. You had sent me a

12 very comprehensive query, I don't know, five or six

13 pages long, and in response to that five or six page

14 long letter, I included with that, or at least my legal

15 team included with that the details of the account, as

16 the account had just come available to us.

17 241 Q. Yes. And of course in 1998, when you had a belief that

18 you had an account in the Isle of Man and you went to

19 speak to Allied Irish Banks about that, the following

20 year, on the 9th of July 1999, you gave evidence to the

21 Sole Member of this Tribunal and did not, as a matter

22 of fact, disclose to the Sole Member of the Tribunal on

23 that occasion your belief that you had previously held

24 an account in the Isle of Man. Isn't that the

25 position?

26 A. That's the position. But may I say - first of all, I

27 wasn't speaking about the period way back in 1982. I

28 was relating it to the relevant period of the Tribunal

29 at that stage, which was in relation to the Gogarty

30 Module.

1 242 Q. You told the Tribunal you had an overseas account.

2 A. We were dealing with the period of the Tribunal and in
3 the module that we were talking about at that time,
4 which was the module of Mr. Gogarty from '85. And the
5 account in the Isle of Man had been long since closed
6 by that stage.

7 243 Q. If I could deal just in relation to the issue of the
8 Revenue documentation at 4479, where the directors of
9 Oakpark disclosed that they had given a portion of the
10 land in lieu of fees.

11 .
12 I presume that the body who were providing these
13 auctioneering fees, if it was yourself, was PJ Burke
14 (Sales) Limited?

15 A. That's precisely it.

16 244 Q. But you were, of course, the person who received the
17 benefit of the fee?

18 A. I received the benefit of the fee.

19 245 Q. I just wanted to clarify that for the record.

20 .
21 Could I also clarify for the record that Mr. Joseph
22 McGowan is not and was not ever a director of Oakpark?

23 A. He wasn't.

24 246 Q. I think Mr. Walsh had put it to you that, in fact,
25 Oakpark was one of the Brennan and McGowan group of
26 companies, but, in fact, that would be incorrect, in so
27 far as Mr. McGowan apparently did not have any legal or
28 beneficial interest in Oakpark?

29 A. He was not one of the directors. There were five other
30 directors. He wasn't a director of it. In talking

1 about the companies, it's the Brennans and the
2 McGowans.

3 247 Q. Could I direct your attention to the letter that you
4 wrote to the bank manager on the 12th of August, 1974,
5 please, at Document 5441.

6 .
7 Perhaps you could explain the terminology that you
8 used, Mr. Burke, in this letter, because you directed
9 Mr. Delany, and you say: "I give my authority to show"
10 - and you delete the word "show" and you put in the
11 word "provide" - "any information required to
12 Mr. Casey."

13 A. Yes.

14 248 Q. Initially it appeared you were of the view that
15 Mr. Casey should be shown all of your bank records, but
16 the ultimate authority that you gave was to provide
17 information?

18 A. To provide anything he wanted. It was to provide any
19 information he required, rather than just limiting it
20 to showing it to you. It was to provide him with
21 anything he wanted, rather than merely showing it to
22 him.

23 249 Q. And the information was provided, as we have seen in
24 Mr. Delany's letter of the 24th of August?

25 A. That's precisely it, followed by another letter on -
26 that Mr. Casey obviously asked for, which was the
27 letter of a few days later.

28 250 Q. But there is nothing to indicate in any of that
29 correspondence that Mr. Casey was then or indeed ever
30 shown your financial records in the bank, because,

1 indeed, your authority does not go that far, isn't that
2 correct, Mr. Burke?

3 A. No, I do not take that interpretation of it at all.

4 .

5 My authority was to provide him with any information he
6 wanted, which - rather than limiting it by just the
7 word "show", it was a question of "provide" him with
8 anything that he wanted. Through you, Mr. Chairman,
9 may I say the questioner's interpretation would suggest
10 that "provide" was limiting. My interpretation and my
11 intention was to provide him, to ensure the maximum
12 cooperation, which I was trying to provide at that
13 time.

14 251 Q. Yes, of course. Just to draw your attention - that the
15 last transaction on your Allied Irish Bank (Isle of
16 Man) account was a transaction on the 11th of April
17 1985, when there was a direct payment of ú342.10.
18 3039, please.

19 A. That seems to be a throwback of interest that would
20 have been due for the few days in between the money we
21 had taken out. My only recollection of that is if I
22 got it, I would have spent it on political purposes,
23 and I've told that you already.

24 252 Q. But you are not suggesting you didn't get it, Mr.
25 Burke?

26 A. Well, quite frankly, I don't recall ever getting it,
27 but I am quite prepared to accept that if it shows that
28 it went to - it went to Bruton Street. As to whether
29 they sent it on to me or not, I am prepared to accept
30 that they did. I don't recall getting it. I have my

1 doubts, but if I did get it, it would have been spent
2 on political purposes.

3 253 Q. I mean, what this shows, of course, Mr. Burke, is that
4 there was a transaction on the Allied Irish Banks (Isle
5 of Man) account in April of 1985, and therefore it was
6 an account that was operative in 1985, and therefore,
7 on your definition of the questions you were being
8 asked in the Gogarty Module, would of course have
9 brought this account into the Gogarty Module, and you
10 should have disclosed it --

11 A. Absolutely not. I have no recollection of that ú342,
12 but the disclosure that you talk about, the --

13 254 Q. Sorry, Mr. Burke, non-disclosure.

14 A. Excuse me, Mr. Chairman. I was asked, on directions of
15 you, for my bank accounts for a period - I had been
16 asked by you on instructions to give you my bank
17 accounts from the period of 1985, from the end of May
18 1985. You made an Order at an early stage asking for
19 these documents to be made available to you under
20 Discovery, a Discovery Order, and I made the documents
21 available to you. And it would not have been covered
22 in the period that the - that the questioner is
23 suggesting in her usual friendly manner.

24 .

25 MS. DILLON: I have nothing further for Mr. Burke at
26 this time, Sir, although it is likely that Mr. Burke
27 will be requested to give further evidence at some
28 further stage.

29 .

30 There is also a possibility of one further witness,

1 whom we are trying to locate, and we have not located
2 at the moment, who may have evidence relative to
3 matters that have been the subject matter of the
4 present module.

5 .
6 Subject to the availability of that witness, who will
7 affect, only, I expect, Mr. Burke, this is the end of
8 the module. And if I could ask you simply to reaffirm
9 that no extension of time will be granted to any party
10 in relation to the 17th of December deadline, and it is
11 likely there will be oral submissions leading up to the
12 week of the 21st of December.

13 .
14 MR. HAYDEN: Just before - rather than have a
15 pre-emptive strike, would it not be somewhat better to
16 see whether or not any additional evidence arises that
17 might affect anybody --

18 .
19 CHAIRMAN: I am not going into the matter at the
20 moment.

21 .
22 MS. DILLON: This is for information purposes only.

23 .
24 CHAIRMAN: We will have to ascertain what the
25 information is and make our minds up as to --

26 .
27 MR. HAYDEN: I accept that, Sir. What I meant was that
28 since Ms. Dillon has already asked you to refuse an
29 application I haven't made, nor I intimated I was going
30 to make, I would have thought that if there is extra

1 evidence that might arise, that might affect my
2 clients, I might eventually have to say something about
3 it.

4 .

5 CHAIRMAN: We'll await events, and you can take it up
6 then, and we might know what you are talking about.

7 .

8 MR. HAYDEN: We have to wait for Ms. Dillon, then.

9

10 MR. WALSH: Before we finish, Mr. Burke, just one last
11 question. We don't need to put the document up on
12 screen. The '74 authority to the bank --

13 .

14 CHAIRMAN: In relation to Mr. Casey? Detective Officer
15 Casey?

16 .

17 MR. WALSH: Precisely, Sir.

18 .

19 Ms. Dillon was debating with Mr. Burke the difference
20 between "show" and "provide". Just one question I want
21 to ask arising out of that.

22 .

23 CHAIRMAN: Carry on.

24 .

25 THE WITNESS WAS THEN RE-EXAMINED BY MR. WALSH AS
26 FOLLOWS:

27

28 255 Q. MR. WALSH: Thank you, Sir.

29 .

30 Mr. Burke, as far as you are concerned, "provide" I

1 take it, is a much greater and broader authority to the
2 bank than the word "show"?

3 A. That was my intention, that having put the word "show"
4 down, I didn't think it was broad enough. But I - what
5 I wanted to do was give the maximum cooperation to the
6 investigation that was being carried out, and that's
7 why the word "provide" was there. So it wasn't a
8 question of showing him any document he wanted, but
9 also to give him copies of the document he wanted.

10 256 Q. I think it's our understanding that if you had only
11 used the word "show", that it wouldn't have given the
12 bank any authority from you as client to actually
13 release information to the Gardai?

14 A. They would have had to come back to me and get another
15 authority from me to provide the documentation.

16 257 Q. Thank you very much.

17 .

18 MS. DILLON: I am obliged to Mr. Walsh for his
19 explanation and his evidence.

20 .

21 Thank you, Sir, that concludes matters.

22 .

23 CHAIRMAN: Thank you. We'll stand down Mr. Burke for
24 the moment, and any other information will be
25 communicated to any person involved in due course.

26

27 THE WITNESS THEN WITHDREW

28 .

29 THE TRIBUNAL ADJOURNED UNTIL FURTHER NOTICE

30

