

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 13TH JANUARY 1999 AT

10AM:

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CHAIRMAN: Good morning everyone. First of all may I offer my apologies for being late. It's not entirely my fault. I got a puncture and I couldn't get the nut of the wheel to open and I had to get the AA. That's what's caused the delay, there's no mystery about it.

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Now, Mr. Gallagher.

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MR. COONEY: Mr. Chairman, before the evidence of Mr. Gogarty resumes, there are a number of matters I want to draw to your attention, Mr. Chairman. You recall that yesterday, Mr. Chairman, I made a number of opening submissions to you and one of them, the first was that I respectfully suggested to you that these proceedings should open with a statement from counsel for the Tribunal in which he sets the context, as I described it, for the evidence of Mr. Gogarty. I then made further submissions, Mr. Chairman, relating to three categories of documents which hadn't been made available to us and these were the documents which Mr. Gogarty had given to the Tribunal, the documents which have or were to be discovered to the Tribunal by Donnelly Neary and Donnelly and documents which were to be discovered to the Tribunal by the firm of auctioneers, Duffy Mangan and Butler. I then made a further submission to you, Mr. Chairman, in relation to the arrangement you apparently reached with the Gardai Siochana in relation to the protection of Mr. Gogarty and I addressed very specific queries about this because I considered it to be a matter of importance to my client's interests.

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Now you heard all of these submissions, you heard submissions from

the other parties and then you heard a reply from Mr. Hanratty from the Tribunal team and then some replies from Mr. Allen and myself. You then adjourned, Chairman, and then you came back and delivered a very short ruling which is recorded at page 59 of the transcript of yesterday's proceedings. Now in that ruling, Mr. Chairman, you dealt with one matter only and that was our objection to the taking of Mr. Gogarty's evidence unless it was preceded by an opening statement on behalf of the Tribunal and I want to quote from the transcript of what you ruled yesterday on page 58.

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You first of all referred to the application and submissions which were made and then you give the gravamen of the ruling as follows: "I am satisfied that none of the submissions made to me should fundamentally affect the decision of the Tribunal to proceed to hear in public the evidence of Mr. Gogarty today. Accordingly, I intend to proceed with the questioning of him immediately. I will prepare a written decision giving the basis on which I have come to this conclusion and deliver it at a later date, probably late tomorrow. Thank you." And then you called on Mr. Gallagher to bring Mr. Gogarty to the witness-box.

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It's abundantly clear, crystal clear, Mr. Chairman, is what you were ruling there, the ruling that you made there was a decision to proceed with the evidence of Mr. Gogarty without there being a preceding textual opening statement from counsel for the Tribunal. You have not given me, Mr. Chairman, any ruling on my request for the additional documents of Mr. Gogarty nor did you give any ruling on my request for documents which were discovered by Donnelly Neary and Donnelly and Duffy Mangan and Butler. Further, Mr. Chairman, you haven't given any ruling on my request we be furnished with information relating to the Garda protection

you apparently arranged for Mr. Gogarty through the Garda Commissioner and the allied matters which were raised in that.

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Now these are crucial matters, Mr. Chairman. Effectively you ruled on one submission only and haven't ruled on the other matters. I am particularly disturbed, Mr. Chairman, by the absence of the ruling relating to Mr. Gogarty's documents. We know for a fact and it's admitted by Mr. Gogarty in his affidavit he has a significant number of documents. Why haven't these been made available to us, Mr. Chairman? We want to see these documents. We will look at the documents made available to us as the Tribunal proceeds. These documents are relevant to us, Mr. Chairman, not to any other party in the matter and we will require a ruling on this, Mr. Chairman, and if you rule in our favour on this, we won't ask for delay in proceedings, some of my colleagues will go and inspect this documentation. These documents, as I say, are relevant to us, Mr. Chairman and we require to see them for the purpose of cross-examining Mr. Gogarty. We are not asking for a delay on Mr. Gogarty's evidence. We never asked for delay on Mr. Gogarty's evidence. All we ask is it be set in the proper context and we should be given material now in the possession of the Tribunal which will enable us to do a cross-examination which fulfills our obligations to our clients. So this morning, Mr. Chairman, I am asking you now for a ruling on this because we require these documents for the purpose of cross-examining Mr. Gogarty.

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I am also asking, I am also asking you now specifically for a ruling on whether or not the documents produced at the Tribunal by Donnelly Neary and Donnelly and Duffy Mangan and Butler are to be made available to us before I commence my cross-examination of Mr. Gogarty and I am also asking, Mr. Chairman, for a response to the

request about the Garda protection, to my request about details of the Garda protection of Mr. Gogarty.

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I have another matter I want to raise now.

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CHAIRMAN: You might as well complete because I want to call on counsel --

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MR. COONEY: The other matter, Mr. Chairman, is entirely different and it relates to the matter when Mr. Gogarty gave his evidence yesterday and the effective absence of any proper control on Mr. Gogarty either by you or counsel for the Tribunal over Mr. Gogarty. The result of this, Mr. Chairman, has been that he has abused his position as a privileged witness in this Tribunal to make comments which are irrelevant to the issues which you have to try and which are gravely defamatory of my client. Let me give you an example. The headline in today's Cork Examiner is to the effect that 'Businessman Attempted Suicide Over 6 Million Loss'. Sorry, I will give you the precise -- 'Suicide Is Attempted By Businessman Who Lost 6 Million Pounds In Enterprise'.

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Now if we turn to the appropriate section of the transcript of Mr. Gogarty's evidence, this is what he said. He was being asked, he was asked by Mr. Gallagher at page 82 of the transcript, question 69: "What was your personal relationship with Joseph Murphy and his family around that time?"

Answer: Well it was very good. You would want to take it in the right sense, you know. I was very good with his wife who was very anxious over himself because he was going through a rough period and she was a bit upset but she thought it was the influence that Conroy had over him because Joe was drinking a lot and in fact Conroy did say to me at one time that he had a

difficulty saying Joe considered committing suicide over the IFTC affair and that would give me an indication of the psychological control..."

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First of all, the headline in the Cork Examiner is a total distortion of what the witness actually said but -- please, let me finish -- but the fact of the matter is that the witness was permitted to say this in the witness-box, led to this admittedly inaccurate headline.

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Now that should not happen, Mr. Chairman, and I respectfully ask that you and/or counsel for the Tribunal should exercise a strict degree of control over Mr. Gogarty during the remainder of his direct evidence. You are aware, Mr. Chairman, that every citizen in this country has a constitutional right to his good name. You are further aware, Mr. Chairman, that the first body in this country charged with protecting those sort of fundamental rights is judges of the High Court. It is entirely disgraceful, Mr. Chairman, that my client Mr. Joseph Murphy should be subjected to the sort of abuse which has come from the witness-box and Mr. Gogarty.

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Now the press are here to report what is here in the witness-box and we don't criticize them for that although we do criticize inaccurate headlines but once these matters are said in the witness-box, the press naturally will pick them up and they will be given widespread publication in newspapers and radio and television to the grave detriment of my client, Mr. Chairman. This should not be permitted, Mr. Chairman, and the only antidote is for you and/or counsel for the Tribunal is to strictly control the witness which you have brought here to give evidence against my client.

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I respectfully ask, Mr. Chairman, for the remainder of Mr. Gogarty's evidence he confines strictly to answering specific questions which were put to him. It's not my business to tell Mr. Gallagher how to lead a witness in direct examination but I respectfully suggest that Mr. Gogarty be asked specific questions to which he can only give specific answers, Mr. Chairman.

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CHAIRMAN: Mr. Hanratty.

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MR. HANRATTY: If I can deal firstly with the documents issue, Sir. The position as I understand is that we did receive, as I said yesterday, the Duffy Mangan and Butler documents and they were circulated yesterday afternoon. We have not yet received the Donnelly Neary Donnelly documents but they contacted with us yesterday and indicated that they were sending the documents directly to Mr. Gogarty's present solicitors. Now, I don't know as of this moment whether that has been done but as soon as it has been done, we will obtain the documents and circulate them at the earliest possible opportunity and that in fact will be pursued this morning.

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So far as Mr. Gogarty's other documents are concerned, I think you heard submissions from both of us on that yesterday and that will form part of your ruling in due course.

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Moving on to the question of the admissibility, I don't know if you want me to deal with that aspect, Sir, but it seems to me that perhaps Mr. Gallagher should, since Mr. Gallagher is taking the witness.

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MR. GALLAGHER: Sir, the Tribunal is established to inquire into

certain matters of urgent public importance. Allegations have been made and are contained in an affidavit and statements have been furnished in reply. Many of these statements take issue with what has been deposed to by Mr. Gogarty and they allege that what he has said is false and untrue. Indeed you will recall that at an earlier hearing of this Tribunal, counsel on behalf of Mr. Bailey and indeed on behalf of Mr. Murphy and the JMSE companies raised the credibility of Mr. Gogarty. The question therefore of credibility is one that is crucial to the fact-finding exercise in which you are engaged.

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The position yesterday in relation to the issue that was raised by Mr. Cooney is that Mr. Gogarty was asked a specific question about his personal relationship with Mr. Murphy and his family around that time. It was in that context that the matter that Mr. Cooney complains of has arisen but whether we like it or not, the issue of credibility arises. Allegations of untruths have been made, persons have described statements made by Mr. Gogarty as 'false', counsel has talked about Mr. Gogarty's version 'changing with the weather'. It 'depends on the mood which you get him'. He is on the public record with a variety of different versions and later 'we are satisfied Mr. Gogarty's affidavit is littered with falsehoods and untruths'. In those circumstances, it seems to me that it is important for you, Sir, to hear as much evidence as you consider appropriate in order that you can evaluate the evidence, evaluate the witnesses and make a decision as to what evidence, if any, you will accept and what weight you will attach to such evidence.

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It is of course a matter for the Tribunal's discretion as to what evidence will appear and it's not, in my respectful submission, bound by the strict rules of evidence as they apply in the

courts.

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The jurisprudence clearly sets out a Tribunal exercises its own rules as to what evidence it will admit subject only to the requirements of natural justice and of course on the basis that it will, in due course, decide what weight should be attached to any particular piece of evidence or segment of evidence. There is, of course, also an absolute right to rebut any evidence that is given and witnesses will and can be called to do that.

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This Tribunal is inquisitorial in nature. There is no party against any other party. It is not a case of the Tribunal calling witnesses against Mr. Murphy or against anybody else.

The Tribunal, and your role is to establish the truth insofar as you can establish it. You do not have any position in that.

You are essentially the man standing on the halfway line trying to evaluate what happened, to assess it and report to the Oireachtas and, through the Oireachtas, to the people of Ireland. It is, as the Supreme Court has said, a matter of extreme public importance. It is important that the integrity of a public life should be maintained and that this inquiry should report on all aspects of it and because credibility is an issue, you must, in my respectful submission, hear evidence that will assist you in evaluating the credibility of witnesses as they come.

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Mr. Hanratty has dealt with a position in relation to the documents that were requested yesterday and it's my understanding from what you said yesterday that you intend to deliver a written ruling on the various submissions that were made yesterday. If I could, Sir, just finally remind you of what was said by the Supreme Court as recently as the 6th January in the Redmond case. They said, "There is no doubt but that in an inquiry by



the Tribunal into the allegations made by Mr. Gogarty as contained in his affidavit sworn the 12th October 1998, allied with the exceptional inquisitorial powers conferred upon such Tribunal under the '21 Act, as amended, necessarily exposes the applicant - that's Mr. Redmond - and other citizens to the risk of having their private lives uncovered which would otherwise remain private, and to the risk of having baseless allegations made against them. This may cause distress and injury to their reputations and may interfere with the applicant's constitutional right to privacy. The right to privacy is, however, not an absolute right. The exigencies of the common good outweigh the constitutional right. The exigencies of the common good require that matters considered by both houses of the Oireachtas to be of urgent public importance to be inquired into, particularly where such inquiries are necessary to preserve the integrity of public life."

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And I also draw your attention to a passage which is reported, it's a decision called Canada (Attorney General) -v- Canada (Commission of Inquiry into the Blood System), a Canadian decision, and at paragraph 39 of that judgment, I can make a copy of this available to you, Sir, the following was said in the course of the judgment and I quote: "A public inquiry into a tragedy would be quite pointless if it did not lead to identification of the causes and the players for fear of harming reputations and because of the danger that certain findings of facts might be invoked in civil or criminal proceedings. It is almost inevitable that somewhere along the way, or in a final report, such an inquiry will tarnish reputations and raise questions in the public's mind concerning the responsibility borne by certain individuals. I doubt that it would be possible to meet the need for public inquiries whose aim is to shed light on a

particular resident without in some way interfering with the reputations of the individuals involved."

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And it is here that this is such an inquiry that will or is likely to interfere in some way with reputations of the individuals involved, including the reputation of Mr. Gogarty and his reputation of course has to be protected and he is entitled to the same consideration and the same constitutional protections as Mr. Murphy and any other person. And in *Goodman International -v- Mr. Justice Hamilton* at 1982 Irish -- sorry, 1992 Irish Reports at 546, the following passage appears at 603, and this is Mr. Justice Hederman dealing with the question of hearsay evidence.

"With regard to the first, that there was a fear that there might be overuse of hearsay evidence, this because undoubtedly... there was included much hearsay but the Tribunal doubtless will adopt the same approach as the Tribunal of Inquiry into dealing with *Great Southern Railway Stock*, and the reference is given. The members of which were Mr. Justice Overend, Judge Davitt and Judge Barra O'Briain. When it sifted through rumour and hearsay, it relied only upon admissible evidence for its findings."

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And if I can pause and say that that, in my respectful submission, is what you have to do. You have a lot of material that will be thrown into the sieve, as it were, you have to shake that sieve to see what shakes out and what is admissible and what is not admissible in relation to your findings and base your findings only on admissible evidence.

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The quotation of Mr. Justice Hederman continued; "In the course of this inquiry, it may be necessary for the Tribunal to relax the rules of evidence in regard to some particular party including the applicants. It would be very unwise for this court to attempt...

procedure."

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And in my respectful submission, it's clear that the relationship between Mr. Gogarty and Mr. Murphy and the Murphy companies is material to the matters that you have to determine and it is legitimate to hear evidence on that relationship to assist you in forming a view as to the facts into which you are inquiring.

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MR. COONEY: Mr. Chairman, this is a lot of obfuscation. My points are very simple. Can I have a ruling please, Mr. Chairman, on my submissions relating to the papers emanating from three named parties, Gogarty, Donnelly Neary and Donnelly and Duffy Mangan and Butler? That's what I am asking for. Now, Mr. Hanratty says the papers from Duffy Mangan and Butler have been circulated. I can tell you, Mr. Chairman, they have not reached us yet.

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MR. ALLEN: Or us.

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MR. COONEY: Neither have the papers from Donnelly Neary and Donnelly reached us. Now we do require specific ruling from you, Mr. Chairman, on our request that we see more of the Gogarty papers than have already been furnished to us. We require that ruling, with respect, Mr. Chairman, before we commence cross-examination. That's something we need to clear today, Mr. Chairman, because if you direct that we are entitled to see these documentations, then there's a logistic problem, we have to second people to the task of going through the affidavit of discovery and examining the documents. We need a ruling today, Mr. Chairman, in the interests of my clients and the interests of justice require it, Mr. Chairman.

Now, to turn to the other matter, Mr. Chairman, and that is the manner in which Mr. Gogarty has been giving his evidence. Mr. Gallagher refers to a contrary view in Mr. Gogarty's account of facts which emanate from us. This is an extraordinary thing for him to say since as lead counsel for this Tribunal, he decided not to make an opening statement to this Tribunal yesterday morning in which he would set out fully and factually the accounts to be given by all parties in this case but for the purpose of making this argument, he refers partially to what is contained in the statements which we have furnished to this Tribunal and I think what was said on an earlier occasion in closed session of this Tribunal. In my respectful submission, Mr. Chairman, nothing could better illustrate the lack of objectivity and the lack of impartiality our clients have experienced since the opening of this. Their side has never been put and yet Mr. Gallagher repeats ad nauseam, if I may say so, that this is an inquiry, it's not an adversarial process, it's not confrontational. He talks about establishing Mr. Gogarty's credibility. What business of his is it to establish his credibility without first inquiring into his credibility? It's not his business to inquire into Mr. Gogarty's credibility and lack of credibility, Mr. Chairman. He doesn't take sides, Mr. Chairman, as I understand is the task of counsel for the Tribunal. He doesn't lead evidence to establish any witness' credibility. He puts the witness' factual evidence up front and in a sense what he has just said now, Chairman, illustrates the criticism we have directed towards him and the Tribunal in its approach to our clients. It seems to me, Mr. Chairman, that a degree of favouritism or partiality has been extended to Mr. Gogarty which has not been extended to my clients and one of the ways it could have been corrected would have been if there had been an opening statement in which a fair and accurate resume had been given.

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However, that's water under the bridge and I am concerned from now on, Mr. Chairman, Mr. Gogarty does not abuse his position in the witness-box to make statements about my clients which are not relevant to the issues to be decided in this case and there's no point in quoting the judgments of the Supreme Court in the Redmond case. That did not confer a cart blanche on this Tribunal or on a witness to say things which are damaging and which are also irrelevant to the issues which have to be decided.

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MR. ALLEN: Chairman, before you respond to Mr. Cooney, there is a matter I wish to address you on very briefly and it is this. I have a specific concern, Sir, arising from the response, in particular of Mr. Gallagher to My Friend Mr. Cooney's submission to you, Sir, and it does derive the difficulty, in my respectful submission, arising from the fact we still have no idea of what the intentions of the Tribunal are. We have no idea of how the Tribunal intends to proceed other than to allow Mr. Gogarty to give whatever evidence he sees fit, to give none of it thus far in any way by remotest of -- having the remotest of connection with the Terms of Reference pursuant to which this public Tribunal is convened and is sitting.

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But I have a particular concern, Sir, that because we have not been told, because there has not been an opening statement, because Mr. Gallagher has not indicated the evidence or the nature of the evidence or the nature of the information to be laid before you in these public sittings, that we are at a distinct disadvantage. I support Mr. Cooney in what he says when he indicates that it's clear that Mr. Gallagher is under the impression that he has some form of mission to protect and buttress Mr. Gogarty and/or Mr. Gogarty's integrity.

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I join with Mr. Cooney in suggesting that that is singularly inappropriate and is not his function. What I want to know, Mr. Chairman, is this and I would have known it if this matter had been opened in a conventional manner, in the only manner in which any Tribunal which has sat in this state has ever opened in the history of this state. What I want to know is this; is Mr. Gallagher, before Mr. Gogarty or at some point before Mr. Gogarty has concluded his examination-in-chief, is he going to put to Mr. Gogarty, is he going to read into the record the vast body of material which is, which we, which we have been furnished which is to say the least damaging in the extreme and which undermines Mr. Gogarty's credibility? To illustrate by way of example; how and when are we going to learn of the Garda investigation into the allegations that Mr. Gogarty himself paid an individual, at least one individual, substantial sums of money to deliver bullets which were required by Mr. Gogarty, which were required --

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CHAIRMAN: Wait now, this is going absolutely outside the provenance --

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MR. ALLEN: It certainly is not.

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CHAIRMAN: I am now going to rule it is inadmissible.

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MR. ALLEN: It is not inadmissible.

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CHAIRMAN: I really find you are going far outside your warrant. It is very unfair to Mr. Cooney's client to deal with this matter as to whether or not this is admissible without him questioning it and having a ruling from this court.

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MR. ALLEN: It isn't a court.

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CHAIRMAN: Wait now, just a moment, Mr. Cooney, do you wish to intervene at this stage in relation to this matter? I don't wish to see your client in any way damaged --

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MR. COONEY: Yesterday I think you ruled, that you said that you would rule on the admissibility of particular portions of evidence as the witness approached that evidence so I intended to keep my submissions on that until Mr. Gogarty approached that part of the evidence. I assumed Mr. Gallagher would signal me --

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CHAIRMAN: I don't see why it should be introduced by Mr. Allen. It's quite irrelevant to this case in any possible form.

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MR. ALLEN: If you would have the courtesy, Sir, to listen to what I have to say.

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CHAIRMAN: I will not listen to something irrelevant and damaging to another person which you have no interest.

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MR. ALLEN: With the greatest of respect to you, Sir, if you listened to your own counsel, you would be aware of the fact that he has said that the issue of Mr. Gogarty's credibility is central and that it has been made central by parties including those represented on this side of the -- indeed and if you are suggesting that the matter to which I have adverted is not relevant and does not go to the heart of his credibility, this is a matter, let me remind you, Chairman, which was published in the Sunday Independent newspaper to the enormous detriment of both parties concerned. Are we seriously, I wonder, Sir - could you

listen to me for a moment while I finish this - are you seriously suggesting that it is not relevant and indeed that it is inadmissible in circumstances where it is already in the public domain?

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But moving on from there, Sir, let me make this clear. All I have sought from you is an indication as to what exactly it is this Tribunal intends doing, as to how it intends proffering evidence. We wouldn't have to ask this question, we wouldn't have to pursue these matters if there had been an opening statement and if any indication of any kind had been given as to the procedures which would be followed by this Tribunal. No indication, for example, has yet been given as to the order of witnesses. Presumably somebody will wake up at some point in time and decide as to who is going to be the next witness. It is grossly unsatisfactory that the affairs of a public Tribunal such as this should proceed on such an ad hoc basis and of course I am bound by your ruling but I do not agree with it.

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MR. GALLAGHER: Sir, can I say it's quite improper that counsel should, in the course of submission in relation to matters that may or may not be admitted in due course, should elaborate on that evidence and should give details of that evidence. I want to say that I take personal offence at the suggestion that there's any attempt to protect or buttress Mr. Gogarty. Every witness will be treated the same and I am not prepared to take that type of allegation from Mr. Allen or anybody else, we will hear this straight down the line at our table and that will continue to be the case. The position is at a public hearing on a previous occasion when Mr. Gogarty was not here, Mr. Allen chose to make it clear that Mr. Gogarty's version of events would be challenged, would remain under challenge and that he suggested that his



affidavit was littered with falsehoods and untruths.

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Now, it is in that context that we come to this hearing. The credibility issue has been raised. It is a matter that you have to decide on, and whether you decide Mr. Gogarty is right or Mr. Murphy is right or anybody else is right is a matter entirely for you but you are entitled to hear the evidence and you are entitled to hear it without unnecessary interruption.

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CHAIRMAN: I will rise for half an hour to consider these matters.

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

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CHAIRMAN: Ladies and gentlemen, the problems which arose this morning arise from the nature of the confidentiality with which we, the Tribunal, see documents. It's not of our making, it's the statutory situation. Fortunately, a very good degree of progress has been made. I think the problem is virtually totally resolved.

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In the circumstances, I propose to adjourn the Tribunal until two o'clock -- a quarter past two. It's now nearly a quarter past one and by that time, the matter will be resolved and we will just formalise the arrangements, but in the interval, I think Mr. Gogarty perhaps would like to relax for the afternoon and we will see him tomorrow morning at ten o'clock. Is that all right? I am trusting that I don't have that puncture tomorrow morning as well. I apologise for the course but -- so two o'clock for just a formality -- a quarter past two to formalise our arrangements and ten o'clock tomorrow morning continuing with Mr. Gogarty's

evidence. Thank you very much for your cooperation and patience.

THE TRIBUNAL THEN ADJOURNED UNTIL 2.15PM.

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CHAIRMAN: This Tribunal, in the course of its investigations, has received, in confidence, a considerable volume of material. As with all Tribunals, material is provided on the basis that its confidentiality will be maintained. It is only when a particular document has been found by me to be relevant to an issue before me that it is circularised to persons other than the source from which the document emanated. The confidentiality of the documents which are deemed not to be relevant to the issues before the Tribunal remains.

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Application has been made to me by Mr. Cooney, senior counsel, for sight of all the documents which have been discovered by Mr. Gogarty to the Tribunal. Compliance with this request would pose difficulty in principle for the Tribunal, as the Tribunal has already considered all of the documentation in question and has determined which of the documents discovered are relevant at present to the issues.

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It follows that the documents which have not been deemed relevant retain their confidential status. Compliance with the request would, of necessity, breach the confidence of the party who had provided this documentation.

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I am happy to note that the parties themselves have now agreed to waive their respective entitlements, to insist upon the documentation provided to the Tribunal remaining confidential subject to certain agreed safeguards.

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Mr. Gogarty's discovered documents will be made available for inspection by Mr. Murphy's lawyers and Mr. Bailey's lawyers and reciprocal rights will be provided to Mr. Gogarty's lawyers in respect of their discovered documents. The documents shall be inspected by the respective lawyers only at the offices of the Tribunal. They have undertaken to the Tribunal to maintain the confidentiality of the documents considered by them.

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In the event that the legal representatives for any of these parties believe that any particular document is material to the issues before me, I shall consider the request of such party to have such document introduced in evidence before the Tribunal.

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Should I accede to the request, the document will be copied and circulated to all parties who may be affected by its contents.

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This process will not hinder the Tribunal from continuing to hear the evidence of Mr. Gogarty which will resume at 10 a.m. tomorrow morning.

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The Tribunal will sit in public tomorrow, the Tribunal will not sit on Friday, but will continue its work in private. The Tribunal will again sit in public on Monday morning next at ten o'clock. I would like to thank the parties and their legal representatives for the pragmatic approach to this problem which I deeply appreciate. Thank you very much gentlemen.

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In these circumstances -- it looks like in these circumstances I won't be able to adjourn --

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MR. LEONARD: Am I to take it that no documents are being made

available to my client on the same basis, on the grounds none of any relevance exist --

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CHAIRMAN: Well basically, if you can make a case to me that a particular document you consider or they are in the same category, I will consider it.

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MR. LEONARD: I can't make reference to documents which I haven't had an opportunity of inspecting, Sir.

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CHAIRMAN: No, you will have to identify a category of documents which you say could be of interest to you.

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MR. LEONARD: That's very easy to do. There is a reference made, I think paragraph --

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CHAIRMAN: I am not going to take -- if you'd like to -- you will have to do this in a different manner which enable me to consider it in detail rather than on the foot and hoof, as it were. If you write to me indicating that a particular area of documents warrants your appraisal, I will consider them, look at the documents in question, and indeed hear your good self --

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MR. LEONARD: There is no problem doing that.

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CHAIRMAN: Well now, in those circumstances, you can make an appointment through the offices of the Tribunal, assuming I don't have a first class dose of laryngitis tomorrow morning. I don't think I will. I will be there to respond to your request and I shall endeavour to facilitate you in every way possible.

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MR. LEONARD: Thank you.

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CHAIRMAN: Thank you very much. I will rise so.

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THE TRIBUNAL THEM ADJOURNED UNTIL THE FOLLOWING DAY, THURSDAY,  
14TH JANUARY 1999, AT 10AM.