

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 18TH FEBRUARY,  
2 1999 AT 10AM:

3 .

4 CHAIRMAN: Mr. Gogarty?

5 .

6 CONTINUATION OF CROSS-EXAMINATION OF Mr. GOGARTY BY  
7 Mr. COONEY:

8 .

9 1 Q. MR. COONEY: May it please you, Mr. Chairman.

10 Mr. Gogarty, when the Tribunal adjourned yesterday evening,

11 I was starting to deal with the letter of the 29th December

12 of 1996 which you had written to Deputy Tommy Broughan.

13 You recall me opening that letter to you?

14 A. That's correct.

15 2 Q. And have you had an opportunity to read the letter

16 overnight?

17 A. Well, I wasn't too well yesterday, but I scanned through

18 it, you know.

19 3 Q. Yes, all right. It's a five-page letter and I don't

20 intend to bring you through the entire of the letter, there

21 are just a number passages that I want to draw your

22 attention to?

23 A. Yes.

24 4 Q. And I had already opened the first paragraph to you

25 yesterday evening but I will read it again just to refresh

26 everybody's memory including my own. It says "Dear

27 Mr. Broughan, we are sorry to have to bother you again

28 with our problem but it would appear that despite your

29 efforts, the minister and powers that be are deliberately

30 evading action to address our complaint and are equally

31 indifferent to the stress and trauma they are causing us by

32 what we feel is very questionable treatment of our

1 well-founded fears."

2 Now you remember writing that, don't you?

3 A. I do.

4 5 Q. I think you have already agreed that the minister you are

5 referring to there was the then Minister for Justice, Mrs.

6 Nora Owen, isn't that right?

7 A. I think she was minister at that time.

8 6 Q. And in fact I think you had caused Deputy Broughan to put

9 down some parliamentary questions to the Minister, isn't

10 that right?

11 A. That's correct, yeah.

12 7 Q. And then the letter continues in the second paragraph. "It

13 has now reached the stage we are not satisfied that the

14 minister's evasion is not part of some cover-up of the

15 scandals of fraud, bribery and corruption which we

16 discussed in detail with you some eight months ago and

17 which we highlighted in both our discussions and the file

18 we gave you at the time and which you were good enough to

19 give to the minister with your questions to her in the Dail

20 at the time."

21 .

22 Now, if I just take that second paragraph in parts, it

23 would appear that you had first consulted Deputy Broughan

24 about May of 1995, isn't that right?

25 A. About that time, yes.

26 8 Q. But for the early part of your association with him, you

27 had referred only to the lack of Garda action as you saw it

28 in relation to the telephone call made to you by Mr. Murphy

29 Jnr, isn't that right?

30 A. That's correct.

31 9 Q. And it wasn't until, as you say in this letter, sometime

32 about April or May of 1996 that you mentioned any matters

1 of alleged bribery and corruption to him?

2 A. That would be right.

3 10 Q. And at that time you gave him a file as well, is that

4 right?

5 A. I gave him a file, yes. I may have given him the file

6 earlier, I couldn't be sure.

7 11 Q. What was on that file, Mr. Gogarty?

8 A. I think he could tell you what that was.

9 12 Q. We have been furnished with a statement of his evidence and

10 some of his attendances and very good attendances but we

11 haven't been told by him what documents are in this file.

12 Do you recall that, Mr. Gogarty?

13 A. I can't fully recall it. But if they were shown to me,

14 I'd identify them you know.

15 13 Q. Perhaps he will make discovery and we will see that. But

16 in any event these documents deal with your employment by

17 my clients?

18 A. Yes.

19 14 Q. And an allegation of bribery and corruption was alleged

20 following this?

21 A. Yes.

22 15 Q. So you had given him, was it a large file, Mr. Gogarty?

23 A. It was a fairly substantial file.

24 16 Q. But in any event, you were led to understand by him that

25 you had furnished these documents to the minister; is that

26 correct?

27 A. I couldn't swear to that now. Perhaps I misread the

28 letter.

29 17 Q. But you say in the last sentence in that second paragraph,

30 if I just quote the part, "Which you were good enough to

31 give to the minister with your questions to her in the Dail

32 at that time."

1 A.

2 That may be correct, yes.

3 18 Q. So you understood from Deputy Broughan that he passed on

4 this file to Mrs. Owen, is that correct?

5 A. It would appear from that, yes.

6

7 .

8 MR. CALLANAN: It's quite clear,"your questions to her in

9 the Dail at that time", is Mr. Cooney going to put the

10 document? He should put it fairly.

11 .

12 MR. COONEY: I hope I am putting it fairly.

13 .

14 CHAIRMAN: To be fair to Mr. Cooney, I heard you read the

15 entire of that because I have the text in front of me.

16 .

17 MR. COONEY: I did.

18 .

19 CHAIRMAN: I have no doubt about that.

20 .

21 MR. COONEY: I did, Mr. Chairman. It's very early in the

22 day for Mr. Callanan to be alleging things against me.

23 .

24 Mr. Gogarty, so far as you know, Deputy Broughan gave this

25 file of papers at the same time he was putting down the

26 questions.

27 A. I would expect so.

28 19 Q. Now, I think he asked a number of questions of the

29 minister, isn't that right?

30 A. That's correct.

31 20 Q. And you weren't satisfied with the answers which he

32 elicited from the minister, is that correct?

1 A. That's correct.

2 21 Q. And I think in fact last week when you were giving your

3 direct evidence you accused the minister of kicking the

4 matter to touch, is that right?

5 A. That would be fair comment.

6 22 Q. But you did, and were you suggesting that the minister was

7 deliberately evading Deputy Broughan's questions?

8 A. Not deliberately...

9 23 Q. Sorry, go ahead.

10 A. I felt she mightn't have the full facts.

11 24 Q. Well I think in your evidence last week, Mr. Gogarty, you

12 referred to the different channels through which questions

13 come to the minister, some come to her through her private

14 secretary, her political secretary, is that right?

15 A. I was told that was the process.

16 25 Q. Well, who were you suggesting was deliberately or

17 inadvertently kicking your question into touch so that they

18 weren't getting appropriate consideration?

19 A. I wasn't making any allegations. I was saying that I wasn't

20 satisfied that I was -- that the matter was being checked

21 out.

22 26 Q. You, I thought, last week said that they weren't being

23 checked out but there was evasion on somebody's part of

24 your questions.

25 A. Well that evasion could be witting or unwitting, the fact

26 that she hadn't information. To me it appears as evasion.

27 I may be wrong on that.

28 27 Q. Well, what about the statement you made in the letter? And

29 I quote, "but it would appear that despite your efforts, the

30 minister and powers to be deliberately evaded answering."

31 Now there is no question of an inadvertent evasion there.

32 You are suggesting that the minister deliberately evaded

1       answering, is that right?

2   A.   Yes, I was given that impression, and my fears --

3   28   Q.   Well with respect, Mr. Gogarty, that's not what you say in

4       this letter. You are accusing her of deliberately evading.

5       Can I ask you what evidence did you have at that time to

6       support this very serious charge against the Minister for

7       Justice?

8   A.   It was a lack of evidence that I was left in the lurch.

9       That I was getting a satisfactory answer.

10   29   Q.   So you concluded that of all the possible explanations for

11       this alleged lack of action, the one which you were

12       prepared to put in writing and repeat was a deliberate

13       evasion by her and part of her duties and responsibilities

14       as you saw it, is that right?

15   A.   Rightly or wrongly, I felt that at the time.

16   30   Q.   Well rightly or wrongly, Mr. Gogarty, you made an

17       accusation of ministerial misconduct in this letter, isn't

18       that right?

19   A.   Well, what kind of conduct did you say.

20   31   Q.   Ministerial misconduct?

21   A.   Or lack of conduct.

22   32   Q.   Well, it's one or the other. You have deliberately, in

23       this letter, accused this minister of misconduct in the

24       course of her office, isn't that right?

25   A.   Well, misconduct can be a number of things. You see, I

26       wasn't getting the answers that I sought or Mr. Broughan

27       wasn't getting the answers he sought and I was still in

28       fear and dread of your client and what he had done to me

29       and was continuing to do to me. Your client who was

30       viciously threatening to break every bone in my body and

31       that I wouldn't have a roof over my head and I was fighting

32       and we continued to fight to stop him doing that even if I

1 have to go to my grave. Your client caused all this  
2 concern and annoyance to me. Your client. Your  
3 client. And there is credible evidence to that effect.  
4 What more can I say?

5 33 Q. I will return to the question, Mr. Gogarty. You were  
6 disappointed or frustrated at what you perceived to be the  
7 minister's lack of response to the questions put down by  
8 Deputy Broughan, isn't that right?

9 A. Very much so, very much so.

10 34 Q. And of all the possible explanations for this alleged lack  
11 of response, you chose to accuse her of deliberate evasion,  
12 isn't that right?

13 A. Well you are putting your interpretation on it. I am  
14 telling you what my recollection was. That I was in fear  
15 and dread. I went through all, I believe, reasonable  
16 actions to try and get what satisfaction or help there was  
17 to relieve our stress and I expressed that and that's my  
18 recollection and that came back to the whole cause of, it  
19 was your client, Mr. Cooney, with all due respects and it  
20 will come out in evidence later on, please God, because  
21 others have to give evidence. I can only tell you what my  
22 condition and fear about it at the time and my recollection  
23 and the frustration I was suffering and if you want to put  
24 any other projection on it, I can't stop you. I can't  
25 stop you.

26 .

27 CHAIRMAN: Mr. Cooney, does the letter not speak for  
28 itself, the language of the letter not speak for itself?

29 .

30 MR. COONEY: I agree with you entirely.

31 .

32 CHAIRMAN: Why are we going into it in greater detail?

1 It's a five-page letter, part of my text -- when I use the  
2 word my text, the text I am going to have to consider --  
3 .

4 MR. COONEY: I appreciate that.

5 .

6 CHAIRMAN: And what's been, and I use the word, with  
7 courtesy to you, you put on it is the cross-examination is  
8 not going to really affect me. It's the text that's going  
9 to affect me.

10 .

11 MR. COONEY: I will be perfectly frank with you,  
12 Mr. Chairman, I am using this letter as further evidence of  
13 Mr. Gogarty's single-minded pursuit of one particular  
14 objective and that if anything obstructs him in that, he  
15 will make the most outrageous allegations against the  
16 person whom is obstructing him.

17 .

18 CHAIRMAN: I got that point a lot long ago from you very  
19 clearly and very explicitly.

20 .

21 MR. COONEY: Yes, I made the point --

22 .

23 CHAIRMAN: You have been absolutely explicit. Now the  
24 point is either a good one or it isn't, the fact that you  
25 produce two or three or four examples with that  
26 interpretation on the particular written text, how far is  
27 that going to get me?

28 .

29 MR. COONEY: Well the more examples of it I produce,  
30 Mr. Chairman, I assume in logic, the more convincing the  
31 point becomes.

32 .



1 CHAIRMAN: Certainly, but there is a point where we can  
2 get an excess of examples.

3 .

4 MR. COONEY: Well I take that point as well, Mr. Chairman,  
5 and I am long enough around not to try to exacerbate either  
6 the Chairman or the Judge presiding but at the same time,  
7 Mr. Chairman, may I just say with respect --

8 .

9 CHAIRMAN: Follow your own course.

10 .

11 MR. COONEY: If there is time wasting here, it's not me I  
12 say, with respect.

13 .

14 CHAIRMAN: Well we won't start going into that,  
15 Mr. Cooney.

16 .

17 MR. COONEY: Well, Mr. Gogarty, I will make the point to  
18 you once more and then I will leave it. I suggest to you  
19 that what we see in this letter and what you have already  
20 said is a prime example of your obsessional -- your  
21 obsession with your grievances and that if you fail to get  
22 your way or if somebody doesn't respond to your  
23 satisfaction, you make outrageous allegations and  
24 accusations against them, isn't that right?

25 A. Is that what you are saying?

26 35 Q. I am putting this to you.

27 A. But I am putting it to you that it comes back to your  
28 client, that he is the cause of my frustration and my  
29 further processing of going to every length to try and get  
30 him brought into the jurisdiction of the Court, the law of  
31 the land, where he wouldn't be a further threat to us to  
32 break every bone in my body and not leave a roof on my

1 head. I could go -- I could go to my grave, I could go to  
2 my grave and carry it in my grave the Burke affairs and the  
3 Redmond affairs and the Bailey affairs. I wouldn't be  
4 very proud of it. But I wouldn't let him put me in my  
5 grave by his vicious conduct to break every bone in my  
6 body --

7 .

8 CHAIRMAN: Mr. Gogarty, what I said to Mr. Cooney equally  
9 applies to you. Continuous repetition of a particular  
10 theme -- if the theme is a good one, it is already got  
11 home. If it isn't, repetition won't improve it. So  
12 please let us try to go through the evidence on a simple  
13 question and answer basis so that I get information, not  
14 just repetition of themes. Please...

15 .

16 MR. COONEY: I will move to another topic now,  
17 Mr. Gogarty. You have already given evidence about the  
18 telephone call which Mr. Murphy Jnr made to you I think on  
19 the morning of the 20th June of 1994 and we have heard a  
20 considerable amount of evidence about that. You also, I  
21 think referred in your affidavit to other incidents, isn't  
22 that correct?

23 A. I probably did.

24 36 Q. And in fact these were incidents which you, not only  
25 recounted in your affidavit, but you also, I think, told to  
26 at least one journalist if not more, as evidence of  
27 harassment against you, isn't that right?

28 A. That could be right, yes.

29 37 Q. I think you know that for a fact, don't you?

30 A. Yeah.

31 38 Q. And one of the incidents which you have referred to is the  
32 alleged firing of bullets through the window of your living

1 room?

2 A. That's right.

3 39 Q. And this incident is alleged to have occurred on the 30th

4 October of 1991, isn't that right?

5 A. That's correct.

6 40 Q. It would be about three years before this telephone call,

7 isn't that right?

8 A. That's correct.

9 41 Q. And when you were talking to journalists, particularly

10 Mr. Frank Connolly, you told him about that incident, isn't

11 that right?

12 A. That's right.

13 42 Q. And he published, he wrote up that incident in the same

14 article which, although not naming my client, referred to

15 my client, albeit anonymously at that stage, isn't that

16 right?

17 A. That's correct.

18 43 Q. And I suggest to you that you told Mr. Connolly this and

19 had mentioned it in the affidavit of evidence for the

20 purpose of suggesting that my clients had something to do

21 with that, isn't that right?

22 A. Well you are saying that. I will tell you what I felt.

23 44 Q. No, no, I want to know what you knew at the time and did

24 you tell Mr. Connolly this.

25 A. Well I told Mr. Connolly that I reported that to the guards

26 and the guards checked it out.

27 45 Q. Indeed we know that --

28 A. Sorry, and that was in 1991. Now, I had been living in

29 Howth and Clontarf for the previous 40 years, 40 years, in

30 a neighbourhood, a decent neighbourhood, and I had never

31 any trouble, never any trouble that I could complain of at

32 all and the record will show that, until I had to pursue my

1 legal rights in the courts and there was cases pending in  
2 the courts at that time and, rightly or wrongly, I couldn't  
3 rule out Murphy's possible involvement in that because I  
4 wouldn't put it past him. That may be unfair but it will  
5 come out in the end of the day but the fact is this  
6 anyway --

7 46 Q. Don't bother with fairness at this stage, Mr. Gogarty.

8 A. The fact is this anyway that he was neither ruled in nor  
9 ruled out.

10 47 Q. I see. But without ruling him in or without ruling him  
11 out, you were prepared to give this story to a journalist  
12 in the expectation that this journalist would publish it  
13 and that the person about whom the story is being published  
14 would be identified as one or other of my clients, is that  
15 right?

16 A. In the context of the time where I was suffering fear and  
17 dread, fear and dread, I was trying to avail of every  
18 reasonable avenue to try and bring normality in my life and  
19 my wife and my family's life. Normality. I was living  
20 out as a recluse. I couldn't stir out.

21 48 Q. This was 1991, Mr. Gogarty?

22 A. That is correct.

23 49 Q. Let me remind you, but I thought that you said your alleged  
24 condition of reclusivity didn't arise until after the  
25 telephone call in June of 1994.

26 A. The threat was there. Some threats were there and there  
27 was a court case pending at the time.

28 50 Q. I want to put it to you and please answer this question,  
29 Mr. Gogarty, is that you deliberately told this -- told of  
30 this event to Mr. Frank Connolly of the Sunday Business  
31 Post in the hope that he would publish it, isn't that  
32 right?

1 A. I expected it would be published, there is nothing wrong  
2 with that.

3 51 Q. And he did publish it, didn't he?

4 A. I believe he did.

5 52 Q. Oh you know well that he did, don't you?

6 A. Yeah.

7 53 Q. You read the edition of Sunday Business Post with the story  
8 in it, isn't that right?

9 A. Yes.

10 54 Q. And that this story contained details of the alleged  
11 payment to Mr. Burke and also details about this incident,  
12 isn't that right?

13 A. They are detailed in the facts as I recollected them.

14 55 Q. And as you told them to him?

15 A. Yes, as I told them, yes.

16 56 Q. Now, what you have told the Tribunal in your affidavit of  
17 evidence is, and I am going to quote your statement. "In  
18 October 1991, a very disturbing incident occurred at my  
19 home. I was sitting in the lounge of my then house in  
20 Sutton when at about seven o'clock in the evening, a shot  
21 was fired through the double glazed plate window only a few  
22 feet from where I was sitting."

23 .

24 Now, that's what you swore to in your affidavit.

25 A. The only thing that may be incorrect in that now is that it  
26 wasn't double glazed, it was single glazed window.

27 57 Q. All right, okay.

28 A. That's just a...

29 58 Q. Now, I want to now draw your attention to your description  
30 of this incident in the draft statement which you made in  
31 August of '97, now, will you listen carefully to this?

32 A. The draft statement?

1 59 Q. Yes. On page 16 of the draft statement, it's page 300 in  
2 what's called the reference documents. Do you remember  
3 making a draft statement of your complaints in August of  
4 1997?

5 A. To who?

6 60 Q. Do you remember making a draft statement?

7 A. To who?

8 61 Q. I don't know. We have been furnished with it, perhaps for  
9 the guards?

10 A. Well I don't know, could I have a look at it? I don't  
11 know.

12 62 Q. Yes, I think Mr. Gallagher will give you a copy.

13 .

14 MR. GALLAGHER: This is a statement on page 285.

15 (Document handed to witness.) It's the draft of the 28th

16 August, 1997, commencing on page 285 of the reference

17 book.

18 .

19 MR. COONEY: Would you just turn to page 300, Mr. Gogarty.

20 It's the numbering at the bottom of the page. Would you

21 look at the last paragraph on that page, which reads as

22 follows: "The case was now before the Circuit Court in

23 1991, but the threats and intimidation... To drop the

24 proceedings continued. A frightening incident occurred at

25 the end of October of that year. I was resting in our

26 lounge at about 7 p.m. when a shot was fired through the

27 half-inch thick plate glass window only feet from where I

28 was sitting and causing about £2,000 worth of damage. It

29 was reported immediately to the Garda." Isn't that right?

30 A. Yeah.

31 63 Q. Now first of all, Mr. Gogarty, in that account you have

32 given, both in your draft statement and in your affidavit

1 of the evidence, you say that a shot was fired through the  
2 window, is that right?

3 A. That's right.

4 64 Q. And it caused £2,000 worth of damage, is that right?

5 A. Approximately, yeah.

6 65 Q. Did you get the window repaired? I assume you did?

7 A. I did, yes.

8 66 Q. And do you have a bill for it?

9 A. No, I wouldn't have the bill now.

10 67 Q. And are you saying that the cost of repairs amounted to  
11 £2,000?

12 A. But it included the damage to the carpets and the  
13 furniture. The whole lot.

14 68 Q. Well what damage was caused to the carpets and the  
15 furniture?

16 A. Oh it was nearly rotten and damage with the splinters of  
17 glass.

18 69 Q. And was this very obvious?

19 A. What?

20 70 Q. This must have been very obvious to an onlooker?

21 A. Oh it was obvious.

22 71 Q. So you are saying not only was the half-inch plate glass  
23 window shattered by this bullet, but that this bullet or  
24 the impact of the bullet also caused damage to the  
25 furniture and the carpets?

26 A. Well the glass went all inside of the house.

27 72 Q. Are you also saying it caused damage to the furniture and  
28 the carpets as well?

29 A. Yes.

30 73 Q. And the damage to the carpets was caused by glass  
31 splintering?

32 A. And rain.

1 74 Q. And which?

2 A. Rain.

3 75 Q. Rain which had come in through the broken window. What  
4 damage was caused to the furniture?

5 A. Well there was -- it was hit by bits of glass, it  
6 was -- there was very good dining room suite at the window,  
7 you know, and there was chips...

8 76 Q. I see, and that's where the sum of £2,000 came to repair  
9 that damage to the curtains and the furniture --

10 A. Yeah, all that.

11 77 Q. And the damage to the carpets and the furniture would have  
12 been immediately apparent to any, even casual onlooker,  
13 isn't that right?

14 A. It would have been. Well a reasonable examination.

15 78 Q. Yes. And can I ask you this, Mr. Gogarty, why did you not  
16 mention in either of these statements this alleged damage  
17 to the carpets and the furniture?

18 A. I included it in the £2,000.

19 79 Q. You see, did you keep the bill?

20 A. Did I keep the bill?

21 80 Q. Yes.

22 A. I'd say I kept the bill for sometime.

23 81 Q. But you don't have it any more, do you?

24 A. No.

25 82 Q. You see you are a very assiduous keeper of documents.

26 A. I beg your pardon.

27 83 Q. You are a very careful keeper of documents and documents?

28 A. Reasonably careful, yeah.

29 84 Q. But you didn't keep the bill for £2,000 in respect of this  
30 damage, is that right?

31 A. Well, we are going back -- we are going back eight or nine  
32 years.



1 85 Q. Well you have documents from well before that time, don't  
2 you have?

3 A. I have, and as I said, we have moved house twice in that  
4 time.

5 86 Q. You may have mislaid it?

6 A. Yeah, yeah.

7 87 Q. All right. Well now, you have told us that you reported  
8 this to the guards, isn't that right?

9 A. Yes.

10 88 Q. Immediately?

11 A. Immediately, yes.

12 89 Q. And I think the guards came to your house, isn't that  
13 right?

14 A. Yes.

15 90 Q. And one of the police officers who arrived was a Detective  
16 Garda M. Duffy?

17 A. I beg your pardon?

18 91 Q. Was a Detective Garda Duffy?

19 A. I wouldn't remember his name.

20 92 Q. You don't remember his name but you do remember him showing  
21 up at your house and inspecting the damage, isn't that  
22 right?

23 A. The guards came on a couple of occasions, yes.

24 93 Q. And you don't recall their names, do you?

25 A. No.

26 94 Q. But you have seen a statement from the guards who called to  
27 investigate this incident, isn't that right?

28 A. Well, as I say, I haven't read it.

29 95 Q. You haven't read it at all?

30 A. No. Honest to God.

31 96 Q. Well, you see we have been supplied --

32 A. You see what these statements, unfortunately, it may be our

1 fault, I don't know, these statements were in my  
2 solicitor's office in McCann Fitzgeralds and they were  
3 asking me in to look at documentation and there was quite a  
4 substantial amount. Now, I asked them could I take them  
5 home to read them and they said, they suggested, very  
6 seriously suggested that I shouldn't because they were very  
7 anxious to be seen to be totally, what I'd call, correct  
8 because there was a big risk of, at the time, of leakages  
9 of Tribunal matters which were being investigated, and they  
10 were ultra careful in suggesting to me that I shouldn't  
11 take them out of their offices and they gave me an  
12 opportunity to scan them but to tell you the truth, there  
13 was so many of them in it, I honestly didn't read them all  
14 at all.

15 97 Q. Okay. I assume the Tribunal will be calling Detective  
16 Garda Duffy. This is what he says. First of all he says  
17 "He is a qualified scenes-of-crime examiner."

18 A. I beg your pardon?

19 98 Q. He is a qualified scenes-of-crime examiner. You know what  
20 that means?

21 A. I have a fair idea.

22 99 Q. He is an expert in examining the scenes of alleged crime  
23 and finding clues and other relevant material.

24 A. I suppose you'd be calling him a forensic expert.

2 100 Q. Exactly. When he went to examine your house on the day  
26 after this incident, he had these qualifications.

27 A. I beg your pardon?

2 101 Q. When he went to your house on the day following this  
29 incident, he possessed these qualifications.

30 A. Well you are telling me that.

3 102 Q. Yes. And he says that he called at 11.30 a.m. on  
32 Wednesday 30th October, at Renvyle, Sheilmartin House, and

1 there he met and spoke to you, isn't that right?

2 A. Yes.

103 Q. And he said that you pointed out to him two small holes in  
4 the downstairs front window. Do you remember doing that?

5 A. I would, yeah.

104 Q. And you showed him, what he describes, as two small holes  
7 in the downstairs window, isn't that right?

8 A. That's correct.

105 Q. And then Detective Garda Duffy goes on to say that you,  
10 Mr. Gogarty, told him that these had occurred sometime  
11 between 5 p.m. on the previous day and 11.15 on the  
12 following day, that's the day of Detective Garda Duffy's  
13 visit to you. Do you understand me? Do you follow me?

14 A. I do.

1 106 Q. So that he is saying, according to his account of his  
16 conversation with you, you didn't make any allegation that  
17 this incident occurred at seven o'clock when you were  
18 sitting in your front room when a bullet passed within feet  
19 of you?

20 A. That's not my recollection.

2 107 Q. But you didn't tell him that, is that right?

22 A. Didn't tell him what?

2 108 Q. That you had been sitting in the front room at the time  
24 this shot allegedly came through the window?

25 A. My recollection is I did tell him. My recollection is I  
26 did tell him.

2 109 Q. But he failed to note that?

28 A. I beg your pardon?

2 110 Q. He failed to note that down?

30 A. Yeah.

3 111 Q. Okay. Then he goes on to say, "At some stage during the  
32 conversation" -- that's the conversation with you -- "a

1 suggestion was made that a firearm was responsible." In  
2 other words, did you suggest to him that the damage to the  
3 window had been caused by the use of a firearm?

4 A. Well the damage was evident. There was holes in the  
5 window and there was cracks spread out all over the  
6 window. The window was 12 foot wide by 6 foot high.

112 Q. Did you suggest to him that a firearm had been used to  
8 cause this damage, Mr. Gogarty?

9 A. I don't think I did. My recollection is there was some  
10 firearm or some weapon that discharged something into the  
11 window. Whether it was a firearm or not, but that was my  
12 impression and I think he agreed with me it was an  
13 impression.

1 113 Q. Because you doesn't agree because he then says "I carried  
15 out a thorough examination of the scene but could find no  
16 evidence of this."

17 A. That's not my recollection. That's his recollection. I  
18 can't speak for him. He will be coming into the court and  
19 giving evidence you know.

2 114 Q. Are you saying that he is mistaken in this?

21 A. It's not my recollection.

2 115 Q. No, no, I didn't ask you that. Are you saying that this  
23 qualified scenes-of-crime expert is mistaken then he says  
24 he could find no evidence of the use of a firearm? That's  
25 all I am asking, Mr. Gogarty. Was he mistaken or is he  
26 not?

27 A. I accept that he may have been mistaken. I won't be, he  
28 will have to come in and tell you what he believes to be  
29 the truth.

3 116 Q. He goes on to say "I examined the holes and the glass  
31 breakage and, in my opinion, the damage was caused by a  
32 marble, a light ball-bearing or other spherical light

1 object which struck the window but not heavy enough to  
2 break the window." Now that's the finding of this  
3 scenes-of-crime expert. Do you agree or disagree with his  
4 conclusion?

5 A. Well at the time -- there was two inspections, at least two  
6 inspections. The first was, as I say, generally what you  
7 are talking about and then overnight, overnight, I had to  
8 put up timber against the window and it was dreadful  
9 weather at the time and I didn't make a good job of it,  
10 what happened is the wind was blowing from the southwest  
11 and during the night, the whole window came in and crashed  
12 in and that is the situation that was, I understood was  
13 being forensically examined. At this time, the whole  
14 window was in and on the carpets. That is my recollection  
15 of it.

1 117 Q. Do you agree or disagree with his finding that whatever  
17 struck the window was not heavy enough to break it?

18 A. What?

1 118 Q. Do you agree or disagree with Detective Garda Duffy's  
20 finding that whatever had struck the window, it did not  
21 break the window?

22 A. I can't comment. All I tell you is that we finished up in  
23 the middle of the night with all the window in on the  
24 ground, in on the floor.

2 119 Q. Please answer my question, Mr. Gogarty. You either agree  
26 with it or you disagree with it.

27 A. It's not my recollection. So if you take that as a  
28 disagreement, fair enough.

2 120 Q. He goes on to say. "This object, whatever it was, and it  
30 wasn't a bullet."

31 A. Wasn't it, no?

3 121 Q. "This object created a crater in the glass like a wide cone

1 with a one- to two-millimetre hole at the outside of the  
2 glass and the crater in the inside."

3 A. Inside of what?

122 Q. I will read it again to you.

5 A. Sorry.

123 Q. "This object" -- and it wasn't a bullet -- "created a  
7 crater in the glass like a wide cone with a one- to  
8 two-millimetre hole at the outside of the glass and the  
9 crater on the inside." In other words, he was saying that  
10 there was an indentation in the glass which in dimension  
11 was about one to two millimetres.

12 A. He said there was a hole, didn't he.

1 124 Q. There was a hole.

14 A. So that's more than an indentation.

1 125 Q. The glass certainly wasn't shattered in the manner you have  
16 described it, isn't that correct?

17 A. That's completely -- I am telling you that the whole window  
18 was on the floor during the night. If that's  
19 not -- because with these holes, there was cracks spread  
20 all over the window and I tell you I put temporary timber  
21 over the night, but the weather was so bad then in the  
22 middle of the night, the whole thing blew in on the floor  
23 of the house (blew).

2 126 Q. He also said the projectile would have rebounded back a  
25 number of metres from the window. A thorough search of  
26 the lawn area failed to locate the object. Then he said,  
27 "As in all cases of malicious damages."

28 A. I beg your pardon?

2 127 Q. He then goes on to say "As in all cases of malicious  
30 damage, I would have asked Mr. Gogarty if he or any of his  
31 family were having difficulties with any neighbour or  
32 anyone else." He -- that's referring to you

1 Mr. Gogarty -- "He didn't give any reason to me as to why  
2 someone would be responsible or suspected for the damage  
3 caused."

4 .

5 Now, did he record you accurately when he wrote that down?

6 A. That's not my recollection.

128 Q. Again that's another mistake, is it? I see. Okay. Then  
8 he goes on to say "Although we would have had problems with  
9 some of the youths during this Halloween period, I did not  
10 attend any other similar incidents of this nature in the  
11 area at the time. Then he says this statement is true and  
12 accurate to the best of his belief."

13 A. Yes.

1 129 Q. Now, here Mr. Gogarty we have a qualified man who attends  
15 at the scene, doesn't find the window broken, finds no  
16 damage or splintering of glass in the carpet or damage to  
17 the furniture. Is he inventing what he says?

18 A. Am I inventing it?

1 130 Q. No, no. Are you saying that he is inventing?

20 A. It's another typical thing that I am a liar, you know.

2 131 Q. No, just answer the question.

22 A. It's not my recollection. That's what I am saying and  
23 presumably he will come in here and give the evidence in  
24 this box like what I am doing, you know.

2 132 Q. Because you will see he was accompanied or there was with  
26 him on that day another detective garda, an Edward Grace  
27 and I will go through this quickly. He says that "He  
28 visited your house and on arrival and met the owner James  
29 Gogarty who pointed out to me two small holes a quarter of  
30 an inch in diameter in a large pane of glass in the front  
31 sitting room window. I examined the area both inside and  
32 outside the window and found nothing to suggest how the

1 holes were made. There was no allegation as to who might  
2 be responsible or if there was any sinister reason for the  
3 same. There were no reports of any similar incidents in  
4 the area. Having examined the scene, I found no material  
5 evidence to suggest how this damage was caused."

6 .

7 Now, those were the views of the second examining Garda.

8 Were you able to follow that, Mr. Gogarty?

9 A. I was.

1 133 Q. Now in summary, Mr. Gogarty, I have to suggest to you that

11 no incident of the sort which you described to Mr. Frank

12 Connolly so that he would publish the same or of the sort

13 which you described in your draft statement or in your

14 affidavit of evidence occurred but you are inventing such

15 an incident for the purpose of blackening my clients, isn't

16 that right?

17 A. So I was telling you a lie? That's your --

1 134 Q. I am putting it to you that you invented it for the purpose

19 of blackening my clients's reputation.

20 A. I am saying that I am telling a lie?

2 135 Q. All right. You disagree with what I am putting to you?

22 A. Of course I do, yeah.

2 136 Q. And everything stated by these two investigating Garda in

24 their report is a mistake, except for the fact there was a

25 report of damage done?

26 A. This is not a mistake. The facts are and I think they

27 will be giving evidence of what actually was on the scene

28 when they came.

2 137 Q. We know what their evidence will be because I have read it

30 out to you, Mr. Gogarty. I am suggesting to you that

31 their evidence to be does not support your account and that

32 you are using this account for the purpose of blackening my



1 clients.

2 A. Well I am not, I am not. I couldn't blacken him any more  
3 than he blackened himself.

138 Q. I see. Now, another incident. Was this one of the  
5 incidents, Mr. Gogarty, upon which you based your claim for  
6 Garda security, is that right?

7 A. What?

139 Q. Is this one of the incidents upon which you founded your  
9 claim for personal security provided by the Garda Siochana?

10 A. It would be a contributory factor.

1 140 Q. And is this one of the matters that you mentioned to the  
12 Superintendent McGroarty when he was investigating your  
13 claim for personal protection?

14 A. I couldn't say now.

1 141 Q. You don't remember?

16 A. No, I don't.

1 142 Q. Well was it one of the matters you mentioned to this  
18 Tribunal when you sought and obtained Garda protection  
19 through the agency of the Tribunal?

20 A. Did I seek protection through the agency of the Tribunal?

2 143 Q. Yes, you did.

22 A. I expressed my fears and concern for my safety.

2 144 Q. Was this one of the incidents upon which you sought, at the  
24 taxpayer's expense, round the clock protection from the  
25 Garda Siochana?

26 A. I am telling you -- sorry, I don't want to be making  
27 comments. I am telling you that I told the guards what I  
28 knew and what my recollections were.

2 145 Q. Was this one of the incidents upon which you sought round  
30 the clock protection at the taxpayers' expense from the  
31 Garda Siochana?

32 A. It was a contributory factor, yeah.

146 Q. One of the factors. All right.

2 A. Yeah.

147 Q. Now, I want to come to another of these alleged

4 incidents. You say that a burglary occurred in your

5 house, isn't that right, and that was on the 14th August,

6 1991, isn't that correct?

7 A. Probably correct, there was a burglary.

148 Q. And that was also investigated by the Garda Siochana, isn't

9 that right?

10 A. That's correct.

1 149 Q. I think the investigating Garda on that occasion was

12 Sergeant John McNerny, wasn't that right?

13 A. Well I wouldn't know his name.

1 150 Q. But this burglary was reported to him, isn't that correct?

15 A. I beg your pardon?

1 151 Q. This burglary was reported and investigated by him?

17 A. Oh yes, yes.

1 152 Q. And again, he is stationed at Howth Garda station and he

19 will say that on the 14th August of '91, Deirdre Gogarty,

20 is that your daughter?

21 A. I beg your pardon?

2 153 Q. He will saying that on the 14th August of 1991, a Deirdre

23 Gogarty reported a burglary -- is that your daughter?

24 A. That's my daughter, yes.

2 154 Q. I see. And he records her apparently telling him that

26 while the front door was left open, culprits entered the

27 house and took a leather handbag containing a brown purse,

28 car keys, house keys, access cards, to the total value of

29 £35?

30 A. That's correct.

3 155 Q. He noted down the details accurately, is that right?

32 A. I'd say so, yeah.

156 Q. Nobody has been made amenable for this, isn't that right?

2 A. No.

157 Q. Now, again did you mention this particular incident as a

4 reason why you required round the clock personal security?

5 A. Where did I mention it?

158 Q. Did you, I am asking you.

7 A. No.

159 Q. Well can you tell us why this matter was serviced on this

9 Tribunal. Are you alleging somewhere or another that my

10 clients had something to do with this?

11 .

12 MR. CALLANAN: Perhaps Mr. Cooney could indicate where he

13 says it surfaced --

14 A. I didn't bring it up in this Tribunal.

15 .

16 MR. COONEY: I am saying why was it investigated by the

17 guards and included in the documents --

18 A. You said --

1 160 Q. Listen to me.

20 A. Listen to me too --

2 161 Q. Listen to my question. Why was a report of this incident

22 included in the Garda documentation furnished to all the

23 parties by the Tribunal?

24 A. I don't know.

2 162 Q. You don't know.

26 .

27 MR. GALLAGHER: That's had a matter that the Garda no

28 doubt will be able to explain in due course. It was

29 circulated to the Tribunal in response to Mr. Gogarty's

30 affidavit and in those circumstances it was felt

31 appropriate that it should be circulated to all of the

32 parties.

1 .

2 MR. COONEY: All right. Can we take it then, Mr. Gogarty,  
3 that you know nothing about this -- you have no idea why  
4 this material has been circulated to all the parties that  
5 are participating in this Tribunal?

6 A. I honestly don't know.

163 Q. All right. You are certainly not alleging that my clients  
8 had nothing whatever to do with this burglary?

9 A. Oh no.

1 164 Q. The last document I want to ask you about is this. You  
11 say that there was damage caused to your cars in your  
12 driveway, isn't that right?

13 A. That's correct.

1 165 Q. And that was --

15 A. It wasn't in the driveway. It was in the parking lot off  
16 the driveway.

1 166 Q. And you say this occurred about October of 1994, is that  
18 right?

19 A. That's probably would be correct.

2 167 Q. And again I think this is --

21 A. It was reported.

2 168 Q. I see. This is an incident upon which you relied to  
23 support your claim for Garda protection, is that right?

24 A. Not necessarily. I reported that there was damage done to  
25 my cars. If there was never a Tribunal...

2 169 Q. But didn't you tell Mr. Connolly about this as well?

27 A. I did, yes.

2 170 Q. And in the context of making allegations against my client,  
29 isn't that right?

30 A. Yes, yes, because for forty-five years or fifty years

31 before that I had never a bit of bother. And all of a

32 sudden while I am in the legal proceedings these things are

1 happening and they are not satisfactorily explained and  
2 they are not inventions on my part.

171 Q. And are you suggesting, when you mention these to this  
4 journalist to whom you were telling your story, you mention  
5 this incident, I put it to you, for the purpose of  
6 implicating my clients, isn't that right?

7 A. I mentioned it because they were unresolved, unresolved,  
8 unresolved.

172 Q. So you didn't know who did it?

10 A. I didn't know who did it.

1 173 Q. But you didn't mind telling a journalist in such terms that  
12 my clients would be identified as the persons who may be  
13 responsible?

14 A. Well they weren't ruled in or out.

1 174 Q. Not in our out?

16 A. Not in or out, even to this day.

1 175 Q. Did you tell Mr. Connolly that when you gave the story to  
18 him?

19 A. I believe I did.

2 176 Q. Why do you think Mr. Connolly then mentioned this incident  
21 of damage to your cars in the context of writing a story at  
22 your instigation about my clients?

23 A. You'd want to ask Mr. Connolly that.

24 .

25 MR. GALLAGHER: I think, in fairness, Mr. Connolly can  
26 deal with that. The witness didn't write the article.

27 .

28 MR. COONEY: But you gave the information to Mr. Connolly,  
29 is that right?

30 A. You'd want to ask Mr. Connolly about that.

3 177 Q. No. Did you have give the information to Mr. Connolly?

32 A. Yes.

178 Q. When you gave that information to a journalist, don't you  
2 expect him to write it up?

3 A. I wouldn't deny that.

4 .

5 CHAIRMAN: That's a comment. Not a question. It is a  
6 comment.

7 .

8 MR. COONEY: With respect, Mr. Chairman, I think that if a  
9 person, a member of the public goes to a journalist with  
10 certain information which he hopes will be published in the  
11 newspaper, it's a fair point I put to him that that was his  
12 hope and expectation surely. That's hardly a comment.

13 However...

14 .

15 CHAIRMAN: In my view, it's a comment.

16 .

17 MR. COONEY: Very well. You see the final matter I want  
18 to put to you on this, Mr. Gogarty, you never reported this  
19 matter to the guards in Howth, isn't that right?

20 A. Which, the cars?

2 179 Q. Yes.

22 A. Oh no I did.

2 180 Q. You see the Sergeant McNerny says, "I have checked the  
24 records at Howth Garda station and I can find no record of  
25 complaints made during 1994 by Mr. James Gogarty or his  
26 wife relating to malicious damage to vehicles at their home  
27 address." Now, surely if you had reported -- to whom did  
28 you report this?

29 A. By phone to the guards.

3 181 Q. To whom?

31 A. I beg your pardon?

3 182 Q. To the guards where?

1 A. In Howth.

183 Q. In Howth. You telephoned them.

3 A. Yes.

184 Q. And did the guards come and inspect the cars?

5 A. They did, and they inspected the damage, not with me

6 present, I think it was with one of my sons and they were

7 to come back and they never came back.

185 Q. Can you remember -- did you ever ascertain the identity of

9 the guards?

10 A. No, I didn't, I didn't.

1 186 Q. You see it appears that there is no record of either a

12 complaint by you?

13 A. So I believe.

1 187 Q. Or inspection of damage vehicles in the Garda records at

15 Howth station?

16 A. So I believe. So what you are saying is I invented it?

1 188 Q. I am pointing out the fact that the guards don't have any

18 records of it, Mr. Gogarty. Now isn't this passing

19 strange, bearing in mind that they had investigated all

20 your other complaints, isn't that right?

21 A. It passing strange?

2 189 Q. Yes.

23 A. I don't know. I couldn't say. Let them speak for

24 themselves. You know.

2 190 Q. You see Mr. Gogarty, you followed up very assiduously your

26 complaint about Mr. Murphy's telephone call to you which

27 had occurred about five to six months before this alleged

28 damage and the failure as you saw it of the guards to take

29 appropriate action. You never followed up this claim of

30 malicious damage to your car, did you?

31 A. We had the cars repaired.

3 191 Q. Oh no. That's not the point of the question I am asking

1 you at all, Mr. Gogarty. I am suggesting to you that if  
2 this incident had happened as you say it did and given your  
3 history of following up complaints, you would surely have  
4 followed up the guards in this particular instant and see  
5 what he had they discovered or not discovered?

6 A. I expected them to come back to me.

192 Q. Did you claim -- how much did it cost to repair the cars?

8 A. I don't think we claimed actually on it, because I couldn't  
9 establish, it was beyond reasonable doubt and I had only  
10 third party and we would carry the cost ourselves.

1 193 Q. Who repaired them?

12 A. I couldn't tell you at the present time. I am not evading  
13 your questions, Lord God I am not evading your questions.

1 194 Q. You are a man that can remember things back to 1968. And

15 what happened in the year of the All-Ireland Hurling  
16 Final. Are you telling the Tribunal that you cannot  
17 remember the name of the garage that carried out the  
18 repairs to your cars on this occasion?

19 A. I wouldn't have the names. I wouldn't ask their names.

20 Why should I ask their names?

2 195 Q. Is it your evidence, Mr. Gogarty --

22 A. Yes.

2 196 Q. -- that you don't remember the name of the garage?

24 A. It is.

2 197 Q. Which carried out the repairs to your cars?

26 A. It is.

2 198 Q. And you can't remember how much it cost and you can't --

28 A. I reckon it cost around about £350 and we carried the cost  
29 ourselves.

3 199 Q. You don't have that bill do you?

31 A. We carried the cost ourselves.

3 200 Q. But you would have got a bill from the garage?



1 A. No.

201 Q. You didn't get a bill from the garage did you?

3 A. We carried it out ourselves.

202 Q. You carried out the repairs yourselves?

5 A. With a friend of mine, yeah.

203 Q. So you didn't bring the cars to a garage for repair, is

7 that correct?

8 A. That's my recollection, yeah.

204 Q. I see, so the cars remained where they were in the place

10 where they are damaged and you and a friend got to work on

11 them and repair them?

12 A. That's my recollection. But I may be wrong.

1 205 Q. What's the name of the friend?

14 A. What?

1 206 Q. What's the name of the friend, Mr. Gogarty?

16 A. Well I have a number of friends. A number of friends.

1 207 Q. What's the name of the friend whom you say helped to carry

18 out the repairs of this car, Mr. Gogarty?

19 A. I couldn't be sure now, honest to God. At the time.

2 208 Q. You have forgotten...

21 A. The damage was --

2 209 Q. I am not asking you about the damage.

23 .

24 MR. CALLANAN: The witness should be allowed answer the

25 question. The statement refers to the cars both being

26 interfered with. That's all it says. And the witness is

27 proposing to explain precisely what happened.

28 .

29 MR. COONEY: Mr. Callanan, please now.

30 .

31 CHAIRMAN: The questions are perfectly fair. Counsel

32 asked the name of the garage that carries out the repairs,

1 that's my note. My note of the answer you got, one of the  
2 answer you got, "I can't remember the name of the garage  
3 which carried out the repairs."

4 .

5 MR. COONEY: Yeah. Well let's leave that now,  
6 Mr. Gogarty, and see if you can now remember the name of  
7 the friend that helped to carry out the repairs.

8 A. I couldn't tell you the truth.

210 Q. How did -- what were the components which made up the bill  
10 for £350, Mr. Gogarty?

11 A. There was no bill.

1 211 Q. But you paid -- you said it cost £350 to repair the damage.

13 .

14 MR. CALLANAN: He said it would have cost.

15 .

16 CHAIRMAN: Please, please do not interrupt the  
17 cross-examination which is being perfectly fairly  
18 conducted. If it's unfair, you may draw it to my  
19 attention. At this moment in time, I can see nothing  
20 wrong with the manner in which he is being cross-examined  
21 at this point in time is being conducted.

22 .

23 MR. CALLANAN: My recollection of what the witness said is  
24 that it would have cost £350. He did not refer to a bill  
25 for £350 --

26 .

27 CHAIRMAN: All right. Simplify the question. What did  
28 it cost and what were the component parts?

29 .

30 MR. COONEY: What was the cost of repairs to the --

31 A. I'd say roughly £350.

3 212 Q. Okay. How was that 3 -- sum of £350 made up?

1 A. Oh I couldn't tell you exactly. One of them was the  
2 replacement of the lock on the door, because it was  
3 damaged. And the other one I didn't get repaired, because  
4 it was damage to the steering where they tried to, they  
5 tried to get it mobile and they damaged the steering in  
6 that and I lived with that then until I traded in the  
7 car. That part of it.

213 Q. Did you give a statement to the guards in Howth setting out  
9 this incident and the damage which was caused to your car,  
10 allegedly, and the repairs that you carried out, a  
11 statement similar to the very detailed statement that you  
12 gave them following the telephone call earlier that year?

13 A. No, I didn't. They didn't ask me -- they didn't come  
14 back.

1 214 Q. All right. Can I ask you finally, this question on this  
16 topic, Mr. Gogarty. Was this one of the incidents upon  
17 which you claimed, at taxpayers' expense, round the clock  
18 Garda protection?

19 A. I didn't look at it this way.

2 215 Q. That's not an answer to the question I have asked you,  
21 Mr. Gogarty, and I think you know it. I am asking you  
22 this, was this alleged incident one of the incidents upon  
23 which you founded your claim for round the clock Garda  
24 protection at the taxpayers' expense?

25 A. I recorded it as a contributing factor as far as I am  
26 concerned. As I told you before, for forty or fifty years  
27 we were living in that area and we never had a bit of  
28 bother until this thing all happened.

2 216 Q. How long have you been getting Garda protection for,  
30 Mr. Gogarty?

31 A. I beg your pardon?

3 217 Q. For how long have you been getting Garda protection?

1 A. Twelve months.

218 Q. And this 24-hour a day protection?

3 A. So I believe. And I am very pleased with it.

219 Q. That's three shifts a day, is that right?

5 A. That's right.

220 Q. And is there static protection outside your house, that is,

7 somebody on duty outside your house?

8 A. That's right.

221 Q. Day and night?

10 A. That's right.

1 222 Q. Then when you move away from your house, you are

12 accompanied by one or two Gardai, is that right?

13 A. That's right. It's a dreadful situation.

1 223 Q. I know. And all based on a telephone call, this incident

15 of alleged damage to your motor car, and an incident which

16 occurred eight years ago when a bullet was allegedly fired

17 through the window of your front room, is that correct?

18 A. Well I think you'd have to talk to the guards because they

19 provided --

2 224 Q. We have seen what the guards say and their opinion is you

21 didn't need protection.

22 A. Fair enough. Well that's their side of it. Why are they

23 giving it to me then?

2 225 Q. You know the answer to that.

25 A. I don't, you must know it, because you said it's all

26 there.

27 .

28 CHAIRMAN: Yes, gentlemen. There may not be a discussion

29 between the witness and counsel.

30 .

31 MR. COONEY: I agree with that, Chairman. I will leave

32 that.

1 .

2 MR. GALLAGHER: I think, Mr. Chairman, before Mr. Cooney  
3 leaves the statement of Sergeant McInerny, he has quoted  
4 from two paragraphs of it. I think in fairness he should  
5 put what is said in that third paragraph to this witness,  
6 because of what has been said and put to the witness  
7 earlier arising from his statement of Detective Garda  
8 Duffy.

9 .

10 CHAIRMAN: Just one moment, Mr. Cooney, till I  
11 find -- yes, I have got it, it's tab 31.

12 .

13 MR. GALLAGHER: Sorry, tab 31, yes.

14 .

15 MR. COONEY: Which are you referring to now, which  
16 sentence?

17 .

18 MR. GALLAGHER: It's the paragraph "On the 30/10/91..."

19 .

20 MR. COONEY: Yes of course, but sure there is no  
21 question. "... James Gogarty reported malicious damage to  
22 his house. The damage was inspected by Garda Michael  
23 Duffy, now detective garda attached to immigration service  
24 and Garda E. Grace, Howth station. The damage was caused  
25 to a front window by what appeared to be an air rifle as  
26 there was two small pellet holes in the glass. Nobody was  
27 made amenable... That there was anything sinister in this  
28 act or that he was receiving verbal phone threats or  
29 intimidations." Is that what you wanted me to read out,  
30 Mr. Gallagher?

31 .

32 MR. GALLAGHER: Yes.

1 .

2 MR. COONEY: Thank you.

3 .

4 Now, Mr. Gogarty, shall I continue on, Mr. Chairman? I

5 was going to move to another topic at this stage.

6 .

7 CHAIRMAN: I think we will take a break for ten minutes.

8 .

9 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

10 AS FOLLOWS:

11 .

1 226 Q. MR. COONEY: Mr. Gogarty, I want to return briefly now if

13 I may to the telephone call which Mr. Murphy made on the

14 morning of the 20th June of 1994. I think you were

15 informed by the investigating gardai that they had made

16 contact with Mr. Murphy, isn't that right?

17 A. That's correct.

1 227 Q. And, in fact, I think did they tell you that as a result of

19 them leaving a message for him, he telephoned them, isn't

20 that right?

21 A. Well, I am not sure.

2 228 Q. Not sure about that but you knew from the guards that he

23 expressed regret, particularly for having caused upset to

24 your wife, isn't that right?

25 A. Yes, I think they spoke to him on the phone, they didn't

26 interview him personally.

2 229 Q. That's correct, he telephoned them would be the evidence.

28 During the course of that telephone conversation, I think

29 it was with Detective Garda McEneaney, he expressed regret

30 particularly for the upset he caused to your wife. Were

31 you informed of that fact by the guards?

32 A. I was told that, yes.

230 Q. I think he also said he wouldn't telephone you again and  
2 that any further communications between you would be  
3 through your solicitors if and when necessary?

4 A. I was told that, yes.

231 Q. And I think that any further communications, in fact, that  
6 occurred between you was through your respective solicitors  
7 from that time on, isn't that right?

8 A. That's correct, because the phone was changed, Mr. Sherry  
9 wrote to the Department of Posts and Telegraphs, I think  
10 there's a letter on the file, that he was anxious because  
11 of the, our anxieties and our fears that the phone number  
12 should be changed and he wrote to the Post and Telegraphs  
13 to that effect.

1 232 Q. Well, irrespective of that, there were no further telephone  
15 calls from Mr. Murphy to your home, is that right?

16 A. That's correct.

1 233 Q. Okay. Now, you wanted him prosecuted but you also have  
18 sued him, isn't that right?

19 A. I have sued him, yes.

2 234 Q. In the High Court?

21 A. In the High Court.

2 235 Q. And your wife was joined in these proceedings; is that  
23 right?

24 A. Well, she was taken out of them I think.

2 236 Q. Well, is she now a plaintiff in those proceedings?

26 A. No.

2 237 Q. She had been?

28 A. She was mentioned, yes.

2 238 Q. She was a plaintiff, wasn't she?

30 A. Yes, well, but she was taken out.

3 239 Q. But originally both you and she were joint plaintiffs,  
32 isn't that right, and you were claiming damages for assault

1 and trespass and upset and so on, isn't that right?

2 A. That would be correct. Well it didn't get that far  
3 seemingly, you see. We made efforts, several efforts to  
4 effect the service of the proceedings but my understanding  
5 was that he was evading service and it was only at the last  
6 minute then he was pinned down by summons servers in London  
7 after the Dublin servers failed to serve the proceedings on  
8 him but it never got to the stage where there was a  
9 Statement of Claim made.

1 240 Q. Well, there is a solicitor on the record for him here in  
11 Dublin, isn't there?

12 A. Oh yes.

1 241 Q. Upon whom a Statement of Claim can be served at any time  
14 you wish, isn't that correct?

15 A. Oh yes, oh yes, oh yes.

1 242 Q. Are you suggesting that the summons server was employed  
17 here in Ireland was in some way bought off, Mr. Gogarty?

18 A. Well, it hasn't been satisfactorily explained, you know.

1 243 Q. Well, did you suggest on any occasion that he was bought  
20 off somewhere?

21 A. I didn't use those words.

2 244 Q. Well, what words did you use?

23 A. Well, I felt that, what I said was that -- if I could  
24 explain it a bit, you see, Mr. Hegarty eventually on my  
25 instructions agreed to serve proceedings on him, either  
26 directly personally or by going to the Court, either here  
27 or in London and he, as a result of that, I gave him 1,000  
28 pounds right away so that the proceedings would be served  
29 before the close of the sessions in around about the end of  
30 July in the High Court proceedings, you see?

3 245 Q. Yes.

32 A. And I was monitoring that then and I was chasing Mr.



1 Hegarty and he said then after about ten days or so that he  
2 had bad news for me. He said that the summons server that  
3 he had engaged in Dublin had made inquiries in Santry and  
4 spoke to people there and the neighbourhood and he asked  
5 could he be relieved of his agreement to serve the  
6 proceedings? And seemingly Mr. Hegarty agreed with him but  
7 I said to him "did you not get an affidavit from him of  
8 what he tried to do so that they could go to the High Court  
9 and get a different form of service?" And Mr. Hegarty, I  
10 said to him, "was there any undue influence on this man?"  
11 And he said as far as he was concerned, no, I think he said  
12 he was an ex member or a serving member, whatever it was  
13 and that that he just wanted to pull out and I says I can't  
14 understand that because to me he is an officer of the Court  
15 and he would have the protection of the Court and I felt it  
16 was -- it was a bit lax that we didn't get an affidavit  
17 from him so that it would save us further expense.

18 .

19 Now, Mr. Hegarty wanted to know what he would do then and  
20 he said to me "could you serve the proceedings yourself?"  
21 And I says, "what would I be doing that for?" I says, I  
22 says "I paid you 1,000 pounds to do this" and he accepted  
23 that and seemingly then he got in touch with a firm of,  
24 these people in England and they tried five attempts to  
25 serve the proceedings on different addresses on Mr. Murphy  
26 and they failed and they then swore an affidavit and that  
27 affidavit is presented to the High Court by my solicitors  
28 and my counsel and the court made an order that it could be  
29 served by ordinary post so that's how it happened.

3 246 Q. Did you suggest to your solicitor at some stage directly or  
31 indirectly that both your solicitor and the summons server  
32 had been in some way bought or improperly influenced so far

1 as the institution and service of those proceedings are  
2 concerned?

3 A. You are putting words into my mouth.

247 Q. Did you?

5 A. No, never. I questioned what happened and I wanted an  
6 explanation and I think I was paying a solicitor for that  
7 and I expected to get some rational explanation.

248 Q. All I am asking you for is a simple answer to this simple  
9 question, did you at any time suggest to Mr. Hegarty that  
10 both he and the summons server somehow or another had been  
11 influenced so as not too institute or delay the service of  
12 those proceedings?

13 A. No, but -- sorry, wait until I explain, give me a  
14 chance.

15 .

16 CHAIRMAN: Thank you very much but that is the answer to  
17 the question you were asked but no, and I don't want to  
18 hear any more. Otherwise we will stay here until Timm's  
19 Eve.

20 .

21 MR. CALLANAN: In my submission, the witness is entitled  
22 to amplify an answer.

23 .

24 CHAIRMAN: I say he is not. He has answered the question  
25 he was asked, he did not in any way impugn the integrity of  
26 Mr. Hegarty or the individuals concerned according to  
27 him.

28 .

29 MR. COONEY: All right, I will leave it at that, Mr.  
30 Gogarty. I want to come to another matter which I think  
31 was mentioned yesterday but more specifically you mentioned  
32 on Tuesday the 2nd February when you were giving evidence

1 and I think this is when Garda matters were being put to  
2 you and you said this, Mr. Gogarty, and I want to quote  
3 from your evidence on that day. It's at page 28 of volume  
4 12.

5 .

6 CHAIRMAN: Of day?

7 .

8 MR. COONEY: Day 12. There's a long answer at question  
9 63, Mr. Gogarty, and you have been asked about your contact  
10 with Deputy Broughan and Deputy McDowell and in the course  
11 of this answer you say, "I don't give a damn to tell you  
12 the truth. I was concerned about the situation with  
13 Murphys and with the threats, ongoing threats and  
14 intimidation. It was in me that Murphy should have been  
15 charged at that time and the whole thing would have been  
16 finished four or five years ago and there would be no  
17 necessity for the Tribunal." Do you remember saying that?

18 A. That's what I believe, yes.

1 249 Q. And that's what you said to the Tribunal some days ago.

20 A. Yes, that's right, that's right.

2 250 Q. And I think just some questions later on you repeated that  
22 and you said, "Yes," -- I am quoting your answer now --  
23 "You see I disagreed with that whether rightly or  
24 wrongly... That's what I felt strongly, that it was fully  
25 investigated, the background and the whole lot, we wouldn't  
26 be sitting here today, that's all I feel and it was an  
27 error of judgment on his part."

28 So can I take it, Mr. Gogarty, that your view is that if  
29 Mr. Murphy had been prosecuted over this telephone call,  
30 there would never have been a tribunal; is that right?

31 A. That's -- I tell you that's my belief because I tell you  
32 why -- sorry, can I explain myself?

251 Q. Well, if you want to.

2 A. I believe there wouldn't be a tribunal because I felt,  
3 maybe it was the guard in me but I felt if he was charged  
4 even on obstructing the course of justice and duress and  
5 intimidation first and there was a follow-up investigation  
6 and what I believed were other criminal, possible criminal  
7 charges, that they would all have been, come out, either  
8 from the court's decision or reference to the DPP. That  
9 was my position.

1 252 Q. You see, Mr. Gogarty, what you have already said to this  
11 Tribunal and you have said it also I think in some of your  
12 documentation, is you would have been happy if Mr. Murphy  
13 had been bound over to the piece, isn't that right?

14 A. Well, I don't think I used the word 'happy', did I?

1 253 Q. Well, you would have been satisfied.

16 A. Satisfied, yes.

1 254 Q. Isn't that correct?

18 A. That's right.

1 255 Q. And that's a very, very minor slap on the wrist, as it  
20 were.

21 A. I beg your pardon?

2 256 Q. That is a very, very minor finding by a District Court,  
23 isn't that right?

24 A. Yes.

2 257 Q. And so if Mr. Murphy had been bound to the peace, none of  
26 this Tribunal would have happened; is that right?

27 A. I believe that have been the truth, yes.

2 258 Q. So it was the failure to convict him and have such a minor  
29 punishment inflicted upon him which led you to make the  
30 statements which ultimately led to this Tribunal; is that  
31 correct?

32 A. Well, there's a little bit more than that. It was because

1 if he was brought within the jurisdiction of a court, I  
2 would have felt that that would have relieved us of an  
3 awful lot of stress and anxiety, that it would pin the  
4 situation where we were finished with him and we could live  
5 then a normal life, you see, and that didn't happen.

259 Q. Yes, I understand that that's your view, Mr. Gogarty, but I  
7 want to explore it a little if I may. I mean, are you  
8 telling the Tribunal that if Mr. Murphy had been bound over  
9 to the peace in the District Court, you would never have  
10 gone to the journalist and the other people to whom you  
11 made the allegations of corrupt payment to Mr. Raphael  
12 Burke; is that right?

13 A. That's correct, I would have been relieved to an awful  
14 extent that I could go out and return to a normal life  
15 because he would be within the jurisdiction, he would be  
16 under the jurisdiction of the courts, you know.

1 260 Q. You see, I have to suggest to you then that what motivated  
18 you in making the charge which ultimately led to the  
19 establishment of this Tribunal was a desire for revenge on  
20 Mr. Murphy and nothing to do with establishing the truth or  
21 otherwise of these alleged scandals, isn't that right?

22 A. Ah not at all.

2 261 Q. Doesn't it follow from --

24 A. Sure the vengeance was on his side, his vicious threats and  
25 intimidation that he put a stop to my legal hassles and to  
26 I exposing him. Now let's be fair about it. And when I  
27 didn't get reasonable satisfaction in that respect, in  
28 fact, I wrote to Bertie Ahern asking him to set up the  
29 Tribunal.

3 262 Q. I think, Mr. Gogarty, perhaps I am not making myself  
31 clear. I am putting it to you that it follows, as day  
32 follows night, from your earlier answers, to the effect

1 that there would have been no tribunal if Mr. Murphy had  
2 been bound to the peace in the District Court. It follows  
3 as day follows night that your motivation in making the  
4 allegations which led to this tribunal were not primarily  
5 for the purpose of establishing the truth but for gaining  
6 revenge on Mr. Murphy?

7 A. I can't go into your heart or your mind what you mean by  
8 motivation, I can't get into your head because I have  
9 listened to you for a long time, you know? And I just  
10 can't get through to you.

11 .

12 CHAIRMAN: May I take it that the Mr. Murphy you are  
13 referring to is Mr. Murphy Jnr..

14 .

15 MR. COONEY: Yes, of course, I should have said Junior.

16 You see it's not my motivation, it's your motivation.

17 A. What motivation? You are being paid 13 or 14,000 pounds a  
18 day for motivating it.

19 .

20 CHAIRMAN: I never knew you were so valuable.

21 .

22 MR. COONEY: Mr. Chairman, I know that we are in a  
23 building which is partly occupied by the Revenue  
24 Commissioners...

25 A. And declare it all.

26 .

27 CHAIRMAN: I hope that this news doesn't reach them  
28 because it's false. For those gentlemen, you have to  
29 prove your innocence, Mr. Chairman.

30 .

31 MR. COONEY: Mr. Gogarty, it's your motivation, I am  
32 questioning you about that, please listen to the

1 question. I suggest to you that the allegations which you  
2 made and I will come later on to the people you made them  
3 about and the order you made them but I am suggesting the  
4 allegations you made which led to the establishment of this  
5 tribunal were motivated not by declaring that the truth  
6 would emerge but by desire for revenge or vengeance on Mr.  
7 Murphy Jnr.

8 A. That's not true.

263 Q. Well, I put it to you that there is no other rational or  
10 logical deduction to be made from the fact that you have  
11 said that if he had received as minor a punishment as being  
12 bound over in the District Court, we would have no  
13 tribunal.

14 A. That's not correct, there's more to it than that and you  
15 have pre-empted full disclosure by proceedings and rhetoric  
16 and technicalities and spin doctoring, you have prevented  
17 full disclosure but it will come out in the name of God, it  
18 will come out please God.

1 264 Q. Well, when you didn't succeed in having Mr. Murphy Jnr.  
20 prosecuted and bound over to the peace in the District  
21 Court, your first step was to consult Deputy Tommy  
22 Broughan; isn't that right?

23 A. Oh no, I had gone to the courts.

2 265 Q. I know you had gone to the courts -- no, no, you had gone  
25 to the courts to sue Mr. Murphy for damages.

26 A. In which I would be backing up my claim against his conduct  
27 and his vicious threats and intimidation, let's be clear  
28 about this.

2 266 Q. I understand that. The first time or the first person to  
30 whom you spoke about allegedly corrupt payments was to Mr.  
31 Deputy Tommy Broughan, isn't that right?

32 A. I accept that, yes.

267 Q. And that was in or about April or May of 1996, isn't that  
2 right?

3 A. 1995, I went to him.

268 Q. You went to him first in '95 but you have already agreed  
5 with me you didn't mention these matters to him during the  
6 first nine months or so of your association with Deputy  
7 Broughan?

8 A. I told you and I told you the reason for it, that I was  
9 prepared to go to my grave with this thing about Burke and  
10 Redmond and Bailey and I wouldn't feel proud of it but I  
11 wouldn't go to my grave, he wouldn't put me in the grave by  
12 physically breaking every fecking bone in my body and not  
13 leaving a roof over my head and I still hold that.

1 269 Q. Mr. Gogarty, this is a very simple matter.

15 A. It's a simple matter for you too as well.

1 270 Q. This is a very simple matter of fact.

17 A. I am agreeing with you, all I want is let's have full  
18 disclosure.

1 271 Q. Please listen to the question now.

20 A. Listen to me too a bit.

2 272 Q. Please just listen to my question.

22 .

23 CHAIRMAN: Please, Mr. Gogarty, I know you wish to express  
24 yourself, please answer the question directly and if you  
25 want to explain your answer within reason, you are at  
26 liberty to do so.

27 .

2 273 Q. MR. COONEY: Is it not correct to say, Mr. Gogarty, that  
29 you were six to nine months into your association, if I  
30 might call it that, with Deputy Thomas Broughan before you  
31 made to him any allegations of corrupt practices among  
32 politicians and officials? Now, do you understand the



1 question?

2 A. I do.

274 Q. Is that correct?

4 A. That is correct but there's a reason for it. Will you

5 please listen to me for a second?

275 Q. Of course, Mr. Gogarty, you can talk so long as you like so

7 long as I have established that you did not make any

8 complaints to Deputy Broughan about these alleged corrupt

9 practices until you had been visiting him and seeing him

10 and associating with him for about six to nine months?

11 A. Can I tell you why?

1 276 Q. Of course.

13 A. Yes. Because I had no very solid evidence of the bribery

14 and corruption at the time. It was my word against eight

15 or nine other people and I would be laughed out of court

16 but I had very physical and definite evidence of fraud and

17 bribery and conspiracy to defraud and trying to conspire to

18 involve me in fraud, I have very physical evidence of that

19 which is still there.

2 277 Q. Well, now what --

21 A. Now, sorry one more little word. What happened was then,

22 you see, that not through my -- I believe -- but there was

23 admissions, there was admissions that monies were received

24 and paid over and I said well that's an admission anyway,

25 somebody is prepared to admit something in the context of

26 it and I felt that I wasn't alone now, I wasn't fighting

27 eight or nine people but Mr. Burke with a bit of hassling,

28 he admitted he got 30, he is in dispute about 10 but we

29 will come to that sometime.

3 278 Q. There was no admission from Mr. Burke until 1997 as you

31 describe it; isn't that correct? Isn't that correct?

32 A. That's correct.

279 Q. Well, I am talking now --

2 A. I didn't want to get in the public domain.

280 Q. Please listen to my questions, I am asking you about 1995

4 and 1996 now because I want to establish the history of the

5 manner in which you brought these affairs to public

6 attention. Do you understand me?

7 A. Yes.

281 Q. Now we have established as a fact that the first person to

9 whom you made any complaints about corrupt payments to

10 politicians or officials was Deputy Tommy Broughan?

11 A. That's right.

1 282 Q. And you didn't do that until your association with him had

13 been in existence for six to nine months?

14 A. That's right.

1 283 Q. At the same time, you also made contact with a journalist

16 Mr. Frank Connolly of the Sunday Business Post, isn't that

17 right?

18 A. I think it was '96, was it?

1 284 Q. In '96.

20 A. Yes.

2 285 Q. In or about, he first published his first story I think on

22 the 31st March of 1996, isn't that right?

23 A. That's correct.

2 286 Q. So that two, the two people whom you first made these

25 allegations of corruption, criminal acts against

26 politicians, against my clients, were Deputy Broughan and a

27 journalist, Mr. Frank Connolly, isn't that correct?

28 A. Well, you see, you --

2 287 Q. Is it correct or is it not?

30 A. Just think of the context too as well.

3 288 Q. Please answer the question please.

32 A. It's correct but it's within a context.

289 Q. When did you first bring these very serious matters of law

2 breaking or alleged law breaking to the authority or to the  
3 attention of the people who would be charged to investigate  
4 these matters, in other words, the Gardai Siochana?

5 A. Well, I think I did that in 1994.

290 Q. You never made any allegation of corrupt payments to a

7 politician to the Gardai at that time, I put it to you, Mr.  
8 Gogarty?

9 A. That's wrong.

1 291 Q. Well, to whom did you make these allegations?

11 A. I told -- the night of the telephone calls, Mr. McEneaney  
12 and his comrade they were in the house, they spent about  
13 two hours with us and they were very nice and helpful,  
14 listen to this, and we discussed the whole background to it  
15 and in a general way I told them the background of fraud,  
16 bribery and corruption.

1 292 Q. In a general way, Mr. Gogarty?

18 A. Yes.

1 293 Q. When did you first name somebody as being guilty of these  
20 corrupt practices?

21 A. In 19 -- I only named two people, that was Mr. Redmond and  
22 Mr. Burke.

2 294 Q. When did you first name these?

24 A. 1995.

2 295 Q. Just listen to me. To the members of the Gardai?

26 A. Oh it would be, oh it's probably a year or so maybe after  
27 that.

2 296 Q. It was 1997, wasn't it, to Superintendent McElligott who

29 first interviewed you about February of 1997, isn't that  
30 right?

31 A. It would, it would.

3 297 Q. I see. So you had been making these allegations of

1 serious law breaking against named people to journalists  
2 and to a TD but didn't bring them to the attention of the  
3 Gardai Siochana until subsequently; is that right?

4 A. Well, that's incorrect as I told you.

298 Q. Well, no, I put it to you that you never, Detective Garda  
6 McEneaney asked you for details in November of 1996 and you  
7 refused to give them to him; is that right?

8 A. That's wrong.

299 Q. That will be his evidence.

10 A. What happened was my recollection is this, my  
11 recollection, of course, Mr. McEneaney might -- my  
12 recollection is when I was making this statement I was told  
13 to keep it concise and related to the incidents on the  
14 night of the 20th June, 1994 and the rest would follow on  
15 in investigations and I confined myself to that time, on  
16 their advice.

1 300 Q. Well, I put it to you, Mr. Gogarty, that the first people  
18 to whom you should have made these allegations, if they  
19 were true as you believed, as you say you believed at the  
20 time, was not a journalist or not a TD but to a member of  
21 the police force of this country who are charged with  
22 investigating and prosecuting crime.

23 A. I would accept that.

2 301 Q. Yes. And I suggest to you that you did not furnish the  
25 Guards with the same sort of detail you gave to the  
26 journalist and to the TD until later?

27 A. That's incorrect.

2 302 Q. When did you first name Mr. Burke and Mr. Mr. Redmond to  
29 the Guards?

30 A. Sorry, in 1997.

3 303 Q. Yes. But you had already named them to Mr. Connolly and  
32 to Deputy Broughan and to other journalists, isn't that

1 right?

2 A. I told you the context, you didn't give me a chance.

304 Q. Did you name them to Mr. Connolly and Mr. Broughan before

4 that?

5 A. To the Guards?

305 Q. No, you have told us you named for the first time to the

7 Guards in 1997.

8 A. That's right.

306 Q. Now, I am asking you when did you first name them to Mr.

10 Connolly and Deputy Broughan?

11 A. To Broughan in 1995.

1 307 Q. And to Mr. Connolly, when?

13 A. 1996 I think.

1 308 Q. '96. I see. When did you name my clients for the first

15 time to these gentlemen?

16 A. Your client?

1 309 Q. Yes. Mr. Murphy Jnr., Mr. Murphy Snr. and the other --

18 A. On the night of the 20th June, 1994.

1 310 Q. When did you name them to Mr. Broughan and to Mr. Connolly?

20 A. In -- Mr. Broughan in 1995.

2 311 Q. And so Mr. Connolly in 1996; is that right?

22 A. Yes.

2 312 Q. Again, before you ever mentioned their names to the members

24 of the Gardai Siochana; is that right?

25 A. Yes, but would you give me a chance to tell you why?

2 313 Q. Of course.

27 A. Bear with me for a few seconds now with all due respects.

28 You have already gone into five or six instances before

29 that I had reported to the Guards and for good or bad, I

30 didn't get what I considered reasonable satisfaction and I

31 felt I lost confidence, I was bitten, I lost confidence, I

32 lost confidence. I believe there was clear evidence there

1 on the night of the 20th June, 1994 that Murphy could have  
2 been charged and brought within the jurisdiction and an  
3 investigation would have disclosed, the whole lot.

314 Q. Mr. Gogarty, you know I moved on from the telephone call  
5 and I have now come to the serious matters that this  
6 Tribunal has to consider.

7 A. But I can't remove from --

8 .

9 MR. GALLAGHER: In fairness, Mr. Gogarty did say there was  
10 a context and asked to be allowed to speak of that  
11 context. He didn't get an opportunity to do so and he  
12 asked a second time and I think in fairness to him, he  
13 should be allowed to give the context.

14 .

15 MR. COONEY: We have had this time and again, Mr.  
16 Chairman, it's a very straightforward simple matter, when  
17 did he first name my clients in connection with this  
18 alleged payment to Mr. Burke. That's very  
19 straightforward, Mr. Chairman.

20 .

21 CHAIRMAN: Mr. Cooney, you are aware from the text in  
22 front of you, why don't you put it to him, the text is to  
23 be found --

24 .

25 MR. COONEY: I don't follow.

26 .

27 CHAIRMAN: The text is to be found on paragraph 36 in Mr.  
28 Broughan's statement.

29 .

30 MR. COONEY: No, Mr. Chairman, I want to ask him fresh  
31 from the witness-box when he says he did. I know, Mr.  
32 Chairman, that it's in his affidavit.

1 .

2 CHAIRMAN: I am not even referring to his affidavit, I am  
3 talking of Mr. Broughan's statement. Why should we wander  
4 around the may pole?

5 .

6 MR. COONEY: The reason why, Mr. Chairman, is because I  
7 cannot get a direct answer from the witness with respect.  
8 I mean, it's a matter of fact when he first named my  
9 clients as being involved in these practices to a third  
10 party. That's a straightforward simple question and he is  
11 a man who claims to have a good memory and he can answer  
12 that directly if he would do so. When did you first name  
13 my clients to the Gardai Siochana?

14 A. In 1994.

1 315 Q. Oh -- in connection with the matters which have been  
16 investigated by this Tribunal, Mr. Gogarty?

17 A. This Tribunal, as far as I am concerned, is investigating  
18 crime related, related crime.

1 316 Q. Mr. Gogarty, you know well that this Tribunal is here to  
20 investigate the allegations of corrupt payments to  
21 politicians and officials. Now, I am asking you when did  
22 you name my clients in connection with these alleged  
23 matters to the Gardai Siochana?

24 A. Sorry, I believe that this Tribunal is investigating all  
25 related matters within the context giving rise to bribery  
26 and planning corruption.

27 .

28 CHAIRMAN: Would you both decide that I determine what are  
29 the parameters of this Tribunal because I don't want to a  
30 clash with two students telling me what the situation is.  
31 Can we get down to the facts which I am trying to  
32 ascertain?

1 .

2 MR. COONEY: Well, Mr. Chairman, could I respectfully say  
3 that there could be no clear fact in the world than  
4 establishing the date when a particular matter was said.  
5 Now that's what I have been trying to do for the last five  
6 to ten minutes and I am not being answered directly, Mr.  
7 Chairman, with respect.

8 .

9 CHAIRMAN: Try again.

10 .

11 .

1 317 Q. MR. COONEY: However, I know I am going to leave it now.

13 Mr. Gogarty, when did you first meet Mr. Connolly the  
14 journalist?

15 A. I'd say sort of 1996.

1 318 Q. Now when in '96?

17 A. I couldn't pin a date at the moment but you see, Mr.  
18 Connolly I believe is going to give evidence.

1 319 Q. We know he is indeed.

20 A. And I can't speak for him.

2 320 Q. No, but you supplied him with information, Mr. Gogarty, I  
22 want to ask you a series of questions about the  
23 circumstances which you gave him information and the  
24 accuracy of that information --

25 A. That's the --

2 321 Q. Just listen to me for a moment. When did you first make  
27 contact with Mr. Connolly who broke this story?

28 A. That's the first time you asked me to explain the  
29 circumstances which I consider the context and that's what  
30 I am trying to do.

3 322 Q. Mr. Chairman, all I am asking this witness is to tell as  
32 far as recollection permits him to do, the approximate date



1 of his meeting with Mr. Connolly. That's a fact. That's  
2 what I am trying to establish. Could I respectfully ask  
3 you, Mr. Chairman, that you direct the witness to answer  
4 that question please.

5 .

6 CHAIRMAN: Mr. Gogarty, would you kindly advise the  
7 Tribunal as to when, as far as you can recall, you first  
8 had a discussion with Mr. Frank Connolly, as near as you  
9 can go? You may be wrong by a couple of months.

10 A. I'd say it was early to mid 1996.

11 .

1 323 Q. MR. COONEY: Perhaps this will help. He published his  
13 first story on this matter on the 31st March, 1996?

14 A. That's what I am saying, early to mid 1996.

1 324 Q. I presume that you remember well the publication of this  
16 story in the Sunday Business Post of that date?

17 A. I would, yes.

1 325 Q. And can you then, by reference to that memory, tell the  
19 Tribunal when you first discussed this matter with Mr.  
20 Connolly?

21 A. It was leading up to that.

2 326 Q. How long beforehand, was it the week before publication,  
23 was it a month before publication or longer than that?

24 A. I couldn't swear to such a fine detail. I would rely on  
25 what Mr. Connolly would say and I would accept that.

2 327 Q. If you can't remember, I accept that. But could you say  
27 it was within the previous four weeks?

28 A. It probably was, you know.

2 328 Q. How did you come in contact with Mr. Connolly?

30 A. Well I will tell you, it's a long story now and I don't  
31 know whether we have time for it.

32 .

1 CHAIRMAN: It's all right, we have three quarters of an  
2 hour. Tell us as briefly as possible how you came to meet  
3 Mr. Connolly.

4 A. Well I was introduced to him by Mr. Kevin Neary, my  
5 solicitor at the time, you see and I met him in Newry at a  
6 meeting with himself and Mr. Neary.

329 Q. When was that, Mr. Gogarty, can you say now, is it before  
8 Christmas of 1995?

9 A. Well I think it would be the dates that are in the  
10 correspondence, you know.

1 330 Q. Yes. Well it was Mr. Neary who brought you and Mr.  
12 Connolly together?

13 A. Yes, that's my recollection.

1 331 Q. And that meeting occurred in Mr. Neary's office in Newry?

15 A. Yes.

1 332 Q. And you travelled up to Newry to meet Mr. Connolly?

17 A. I did.

1 333 Q. How did you get up to Newry?

19 A. I think I drove or my wife drove, I don't know which now.

2 334 Q. Did you make many trips to Newry if I ask, just ask as an  
21 aside?

22 A. I did.

2 335 Q. Because you told us you were living at this stage as a  
24 recluse.

25 A. Yes.

2 336 Q. But not sufficiently reclusive to prevent you travelling  
27 fairly frequently to Newry to see your solicitor?

28 A. I had to monitor myself and be careful.

2 337 Q. I am sure. I am sure.

30 A. Yes.

3 338 Q. So you met him for the first time Mr. Connolly now and was  
32 Mr. Kevin Neary your then solicitor who arranged the

1 meeting between you?

2 A. That's my understanding, yes.

339 Q. And I think Mr. Neary had come to prominence because  
4 sometime before this he had published an advertisement in  
5 the national newspapers offering a reward of £10,000 to  
6 people who would furnish information about corruption in  
7 the planning process?

8 A. That's correct.

340 Q. I see. And you went to him from your previous solicitor,  
10 Mr. Hegarty, is that correct?

11 A. Yes.

1 341 Q. You have already told us that?

13 A. Yes.

1 342 Q. And you had told Mr. Neary your story, is that right?

15 A. Well I don't know whether I told him the full story at that  
16 time. My concern at that time was that he would take over  
17 from Mr. Hegarty in pursuing my High Court case.

1 343 Q. The case against Mr. Murphy Jnr?

19 A. Yes, that was the main, that was the main retainer with  
20 him.

2 344 Q. And that's why you went to him in the first place?

22 A. I didn't seek the reward, if you are suggesting I might  
23 have done it.

2 345 Q. But subsequently, Mr. Gogarty, you then revealed to him  
25 what you allege were these payments to Mr. Burke and Mr.  
26 Redmond, is that right?

27 A. Yes.

2 346 Q. And was it after that that Mr. Neary then brought you and  
29 Mr. Connolly together?

30 A. I would expect it was, yes.

3 347 Q. Do you know did Mr. Neary ever tell you why, of all the  
32 journalists in Dublin and all the newspapers, Mr. Connolly

1 was chosen?

2 A. I beg your pardon?

348 Q. Did Mr. Neary ever tell you why of all the journalists who  
4 were in Dublin, Mr. Connolly was chosen to be the recipient  
5 of your confidences?

6 A. No, I should correct myself there, previously he had  
7 suggested that I talk to the Sunday Times.

349 Q. That's right.

9 A. Do you know?

1 350 Q. That's right, and you had spoken to the Sunday Times, isn't  
11 that right?

12 A. Yes, I had spoken to the Sunday Times.

1 351 Q. And there was correspondence between you and Alan Ruddock  
14 who was the Irish editor?

15 A. There was correspondence, yes.

1 352 Q. And he was the Irish editor of the Sunday Times, is that  
17 correct?

18 A. I think he was.

1 353 Q. And you were also in correspondence with him?

20 A. Mr. Neary introduced me.

2 354 Q. And correspondence with Maeve Sheehan who was a journalist  
22 at that time?

23 A. That's correct.

2 355 Q. And who wrote stories around that time?

25 A. Not on my permission.

2 356 Q. We will come to that in a moment, we will just deal with  
27 Mr. Connolly first.

28 A. Yes.

2 357 Q. Mr. Connolly was introduced to you and you don't know why  
30 Mr. Neary selected him as the journalist to whom you would  
31 first speak, is that right?

32 A. I think he thought highly of him and highly of the Sunday

1 Business Post.

358 Q. Considered him to be an accurate --

3 A. Yes, and truthful.

359 Q. Truthful and accurate journalist who would not misquote

5 you?

6 A. That's correct, that's correct.

360 Q. And would report to his readers exactly what you told him?

8 A. I believe that's correct, yes.

361 Q. And for that reason, you were happy to speak to Mr.

10 Connolly?

11 A. Happy is not the word, I was under pressure.

1 362 Q. All right. I accept that but you were content to speak to

13 him?

14 A. Yes.

1 363 Q. Because you had been assured?

16 A. Actually I was dragged in, I felt...

1 364 Q. That he was a journalist of integrity but more than that,

18 he was also a journalist of accuracy, is that right?

19 A. I would expect that, yes.

2 365 Q. How many meetings did you have with Mr. Connolly before the

21 story was first published in the Sunday Business Post on

22 the 31st of 1996?

23 A. I couldn't actually swear to the number.

2 366 Q. But did you have more than one?

25 A. Oh yes.

2 367 Q. And for how long did those meetings take place?

27 A. They wouldn't have taken long except once when he came out

28 to the house.

2 368 Q. I see. So you met him in Newry and he came out to your

30 house in Sutton?

31 A. Once.

3 369 Q. How long did he spend with you on that occasion?

1 A. I would say over an hour.

370 Q. So you had at least two meetings with Mr. Connolly before

3 he published, wrote the first story, is that right?

4 A. I would say that's correct.

371 Q. At least two?

6 A. Yes.

372 Q. Did you at any of those meetings show him or give to him

8 any documents?

9 A. I did.

1 373 Q. You did. When did you give him documents?

11 A. I showed him the documents that time, I don't think he took

12 any.

1 374 Q. I see. Did he take notes from the documents?

14 A. I don't think I gave him any documents actually.

1 375 Q. All right. Did he take notes from those documents?

16 A. Did he take notes?

1 376 Q. Yes.

18 A. He must have.

1 377 Q. Yes. Tell me, among those documents that you showed him,

20 Mr. Gogarty, did you show him the famous letter of the 8th

21 June of 1989 from Michael Bailey to you?

22 A. No, I don't think so.

2 378 Q. Why did you hold back that letter from Mr. Connolly on that

24 occasion at that time?

25 A. Why did I hold it back?

2 379 Q. That's the question, Mr. Gogarty.

27 A. I don't think I held back anything except that I was under

28 stress and fear and my main concern was to get my

29 complaints investigated.

3 380 Q. Mr. Gogarty, this is a very old theme now.

31 A. I beg your pardon?

3 381 Q. This is a very old tune we are hearing from you again, just

1 listen to my question. You had Mr. Connolly out in your  
2 house where you had a lot of documents, isn't that right?

3 A. Yes.

382 Q. He describes in his Statement of Evidence a table covered  
5 in documents.

6 A. Yes.

383 Q. Is that an accurate description?

8 A. That would be an accurate statement.

384 Q. Among those documents was the letter of the 8th June from  
10 Michael Bailey to you, isn't that right?

11 A. I'd accept it might have been, should have been.

1 385 Q. Why didn't you show that crucial letter to Mr. Connolly at  
13 that time?

14 A. Well I don't -- you see all the documents were there, he  
15 was at liberty to examine them all.

1 386 Q. Is it your evidence then that he saw that document or could  
17 have?

18 A. No, I couldn't --

1 387 Q. Or he could have if he searched long enough?

20 A. Possibly, yes.

2 388 Q. Surely this is the critical document in this case?

22 A. No, necessarily.

2 389 Q. Well it's one of the most critical, isn't it?

24 A. Oh it is, it is.

2 390 Q. Well I suggest to you that if you were being accurate and  
26 honest and fully cooperative with Mr. Connolly, that's one  
27 of the first documents which you would have shown him or  
28 brought to his attention, isn't that right?

29 A. Well it could be interpreted that way, yes.

3 391 Q. But you didn't?

31 A. Yes but I didn't consider that I was doing anything wrong.

3 392 Q. But you did produce it in September of 1997, over a year

1 and a half later, for the first time to Deputy Tommy

2 Broughan, is that right?

3 A. That's correct.

393 Q. That's the first time the document surfaced?

5 A. Yes.

394 Q. And became public in the same month when it was published

7 in Magill magazine?

8 A. That's right, and do you know why?

395 Q. Now I want to turn --

10 .

11 MR. GALLAGHER: Sorry, the witness wanted to say why,

12 perhaps he would continue with that.

13 .

14 CHAIRMAN: Would you mind -- "You did produce it in

15 September, over a year and a half, that was the first time

16 to Deputy Tommy Broughan."

17 .

18 MR. COONEY: Yes, 1997, Mr. Chairman. Perhaps I said --

19 .

20 CHAIRMAN: And "Do you want to know why?", that's Mr.

21 Gogarty. Let's hear why. You were about to tell us why

22 you produced it, produced the letter to Deputy Tommy

23 Broughan.

24 A. Well you see the context of the letter and the subject

25 matter, it was my word against eight or nine or 10 people

26 and in 1997 when you are talking about it, I felt that here

27 for the first time there was an admission made, there was

28 admission made of monies received which were earlier denied

29 for the first time and it was under the privilege of the

30 Dail or something to that effect. It was the first time I

31 felt -- well look it, I felt a little bit relieved because

32 here's is a situation up to now it was one man against many



1 and now the ranks were broken and it was accepted that  
2 there was, at least £30,000 paid over. What it was paid  
3 over it still has to be resolved but at least the admission  
4 was there and I said oh, that's a load off my back now,  
5 that there's, I have corroborated evidence that what I was  
6 saying was the truth, do you know?

396 Q. MR. COONEY: How do you square that, Mr. Gogarty, with the  
8 fact that you were supposedly making full disclosure of  
9 these matters both to Mr. Frank Connolly who was eager to  
10 publish them and Deputy Broughan who was going to raise  
11 them with his own party leaders and perhaps in the Dail?

12 A. Because my predominant concern was my case against Murphy,  
13 the threats and intimidation and where I was getting  
14 nowhere. I am telling you the truth.

1 397 Q. So the less satisfaction you got in the pursuit of Joseph  
16 Murphy Jnr, the more information you revealed, is that the  
17 position?

18 A. You put it anyway you like.

1 398 Q. No, no, I am asking you, is that the position?

20 A. I tell you that I felt that I had unquestionable evidence  
21 of fraud, conspiracy to defraud, threats and intimidation,  
22 which if it was disclosed in evidence in the court would  
23 have led to either the matter being referred to the DPP or  
24 he being charged. I hadn't the same evidence about the  
25 corruption with politicians because I was up against a  
26 fairly strong and resourceful people, do you know.

2 399 Q. Are you finished now, Mr. Gogarty?

28 A. Yes, maybe so.

2 400 Q. Is it your position then that the more frustrated you  
30 became --

31 A. I beg your pardon.

3 401 Q. Is it your position or was it your position that the more

1 frustrated you became at the lack of Garda action against  
2 Mr. Murphy Jnr. arising out of this telephone call, the  
3 more you drip fed information to select members of the  
4 media, is that correct?

5 A. It would be fair enough, yes, yes.

402 Q. All right. Now let's turn to the first publication that  
7 Mr. Connolly wrote on the basis of your information and see  
8 how accurate that is and how it compares with the version  
9 you are now giving to the Tribunal. Have you a copy of  
10 it, Mr. Gogarty? (Document handed to witness.) This  
11 appeared on the front page of the Sunday Business Post, the  
12 leading story, you remember it well, Mr. Gogarty, don't  
13 you. Mr. Gogarty, do you hear me?

14 A. I beg your pardon?

1 403 Q. You remember this story, you remember very well this story  
16 appearing in the Sunday Business Post?

17 A. It's nice to refresh your memory.

1 404 Q. I will bring you through it. The heading is "Fianna Fail  
19 politician paid off by developers", isn't that right?

20 A. That's correct.

2 405 Q. And then "Senior politician and ex-councillor got more than  
22 £50,000 each." Now just pause there for a moment. Mr.  
23 Gogarty, please listen to me.

24 A. Sorry, yes.

2 406 Q. I am going to ask you a question. That sub headline  
26 says --

27 A. I can't listen to you and read this bloody thing.

2 407 Q. I am not sure if it's the Peacock or the Abbey, My Lord.

29 A. No, the Gaiety.

3 408 Q. I suspect it may be the Folie Begeres.

31 .

32 CHAIRMAN: Gentlemen, let there be order.

1 .

2 MR. COONEY: Can I direct your attention to the second sub  
3 headline which says "Senior politician and ex-councillor  
4 got more than £50,000 each." That headlines refers to two  
5 people who are each alleged to have got £50,000 each.

6 A. I didn't read it.

7 .

8 CHAIRMAN: Mr. Cooney, just to save time, we will give the  
9 witness five minutes to read the article.

10 .

11 MR. COONEY: Sorry, with respect, no, Mr. Chairman.

12 .

13 CHAIRMAN: Yes.

14 .

15 MR. COONEY: Please listen to me on this now.

16 A. I can't read it now with you talking.

17 .

18 MR. COONEY: I want to cross-examine the witness.

19 .

20 CHAIRMAN: You may well cross-examine but I am not going  
21 to have you reading out little bits and asking and the  
22 witness saying I don't know the context. The article is a  
23 totality, you can cross-examine him about the article once  
24 he has read it.

25 .

26 MR. COONEY: I accept your ruling.

27 .

28 CHAIRMAN: He has five minutes to read the article because  
29 we want to get on with the business of this Tribunal.

30 .

31 MR. COONEY: Have you read it?

32 A. I think I have the gist of it now.

409 Q. Okay.

2 .

3 CHAIRMAN: Very good, continue.

4 .

410 Q. MR. COONEY: The first three paragraphs in that story

6 don't refer to you at all.

7 A. I would say not, no.

411 Q. Okay. Well we come to the fourth paragraph, that's the

9 last paragraph on the first column "Another individual has

10 claimed to Newry solicitors Donnelly Neary Donnelly that in

11 1989 he personally gave the politician, who was also a

12 local councillor, cash and cheques worth £40,000 on one

13 occasion and was present when a property developer handed

14 over an equivalent amount. The money was in return for

15 the promised rezoning of almost 1,000 acres of land and was

16 to cover payments per number of named councillors who would

17 support the specific rezoning motions."

18 .

19 Now that's the end of the first paragraph, Mr. Gogarty, do

20 you follow that?

21 A. Yes.

2 412 Q. It continues then, "This man has also made serious

23 allegations against a representative of his former

24 employers whom he claims made threatening phone calls to

25 his north Dublin home. He claims that the Gardai

26 subsequently interviewed the caller who admitted making the

27 threatening phone calls. However, no file was sent to the

28 DPP by the investigating Gardai and the caller was never

29 charged with any offence."

30 .

31 I want to stop there for a moment and return to the first

32 of the two paragraphs I have read out. The information

1 contained in that paragraph is based on information that  
2 you gave to the journalist Frank Connolly, isn't that  
3 correct?

4 A. Which one, which paragraph?

413 Q. The first paragraph that I read out to you, I will repeat  
6 it.

7 A. "Fianna Fail"?

8 .

9 CHAIRMAN: No, "another individual".

10 .

1 414 Q. MR. COONEY: "Has claimed to the Newry solicitors Donnelly  
12 Neary and Donnelly." You see that one?

13 A. Yes.

1 415 Q. The person being referred to there is you?

15 A. That's right.

1 416 Q. And what's written there is based exclusively on  
17 information furnished by you to Mr. Frank Connolly, is that  
18 right?

19 A. That's right, that's right.

2 417 Q. Now Mr. Connolly says in this paragraph and you have  
21 already agreed that he is a journalist of accuracy and  
22 integrity, and that this said that you "personally gave the  
23 politician who was also a local councillor cash and cheques  
24 worth £40,000."

25 A. That's correct.

2 418 Q. Now, what he is writing there, albeit anonymously, is about  
27 the alleged payment of £40,000 to Mr. Burke, isn't that  
28 right?

29 A. It's not anonymous, is it?

3 419 Q. Pardon?

31 A. You said anonymously.

3 420 Q. Nobody has been named, you are not named and the politician

1 isn't named.

2 A. That's right.

421 Q. But there's no doubt about it that the people about whom he

4 is writing is you and Mr. Burke?

5 A. That's right.

422 Q. And he says on the basis of information which you furnished

7 to him that you personally gave £40,000 to Mr. Burke?

8 A. Yes, that's right.

423 Q. Now, is that what you told Mr. Connolly at that time, Mr.

10 Gogarty?

11 A. Oh that would be the gist of it, yes.

1 424 Q. And you did not on that occasion make any mention to Mr.

13 Connolly of Mr. Murphy Jnr being present when that payment

14 was made to Mr. Mr. Burke, is that right?

15 A. I don't know whether that's right or wrong now because when

16 I say personally, I had to acknowledge that I was there and

17 I was a party to it.

1 425 Q. The word is "personally gave the politician", now I suggest

19 to you if you had told Mr. Connolly in the various meetings

20 which you had with him before this article was published,

21 you had told him that Mr. Murphy Jnr was present when this

22 money was paid, he would have reported that fact, albeit

23 anonymously, do you understand me?

24 A. Yes, I don't know that. You would have to ask him as

25 well.

2 426 Q. No, no. I am suggesting to you, you have agreed you met

27 him on a number of occasions?

28 A. Yes.

2 427 Q. You agree he is a journalist of accuracy and he was

30 introduced to you on that basis?

31 A. Yes.

3 428 Q. And I am suggesting to you that if you had told him as you

1 have told this Tribunal that Mr. Joseph Murphy Jnr had been  
2 present during the course of the payments to Mr. Burke, he  
3 would have reported that fact even without identifying Mr.  
4 Murphy, isn't that right?

5 A. I don't know. That's what you are saying.

429 Q. Well I have to suggest to you that at these early meetings  
7 with Mr. Connolly, you never told him that Mr. Murphy was  
8 present during the course of the payment to Mr. Burke?

9 A. But sure you are doing nothing but suggesting all the  
10 time.

1 430 Q. Will you please answer the question?

12 A. I have answered it.

1 431 Q. Is it a fact --

14 A. I was a party to that.

1 432 Q. I will repeat it again. Is it a fact that in these  
16 earlier meetings with Mr. Frank Connolly before the  
17 publication of this article, you did not tell him that Mr.  
18 Murphy Junior was present and participated in the payment,  
19 the actual payment of money to Mr. Raphael Burke?

20 A. I can't ascribe to that, Mr. Connolly will come in here and  
21 he will talk to you.

2 433 Q. Pardon?

23 A. Mr. Connolly will speak for himself.

2 434 Q. No, no, Mr. Gogarty, we are concerned with your evidence.

25 A. I have given evidence I was a party to handing over money  
26 to Mr. Burke.

2 435 Q. Mr. Gogarty, that's not the point and I think you know  
28 pretty well.

29 A. I don't know what you are --

3 436 Q. You know pretty well the point I am making now, Mr.  
31 Gogarty. I am putting it to you that that story is based  
32 on information which you gave to Mr. Connolly and that that

1 information did not include an allegation that Mr. Murphy  
2 Junior was present and participated in the actual handing  
3 over of cash to Mr. Burke. Do you follow me?

4 A. I don't accept that.

437 Q. Are you telling the Tribunal then that in the course of  
6 these conferences with Mr. Connolly you told him that Mr.  
7 Murphy Jnr was actually present on the occasion?

8 A. I did, I corrected that.

438 Q. Pardon?

10 A. I did, I did, I corrected it.

1 439 Q. Not that you corrected it. Did you tell him that fact  
12 before the publication of this story?

13 A. I couldn't swear to it.

1 440 Q. Well then isn't it --

15 A. I am not going to be walked into making some other  
16 statement.

1 441 Q. Mr. Gogarty, please listen to me. You have made a most  
18 serious accusation against my clients. You have  
19 blackguarded their name both anonymously and in newspapers  
20 for about a year and a half and then openly in this  
21 Tribunal. Now that sort of an answer is not good enough.  
22 I want a specific answer to this question. Did you or did  
23 you not name Mr. Murphy Jnr in the course of the two  
24 meetings that you had with Mr. Connolly prior to the  
25 publication of this meeting?

26 A. I believe I did.

2 442 Q. You believe you did. All right.

28 A. Or at least I corrected it.

2 443 Q. No, no. That's not what I am asking you.

30 A. I can't go further than that. I am telling you the truth.

3 444 Q. Well are you saying that you might have.

32 A. No, I am saying the truth, as far as I am concerned, my



1 recollection is brought back to me that Murphy was the man  
2 who was with me, Frank Reynolds was supposed to come, I  
3 corrected that as well too.

445 Q. I am not asking you that, Mr. Gogarty.

5 A. But that's the context.

446 Q. I haven't the slightest doubt in the world that you  
7 understand the question and the point of the question I am  
8 putting to you, you have shown yourself to be an agile  
9 witness over the last five weeks. I will ask you for the  
10 last time and I want a direct answer. Is it your evidence  
11 to the Tribunal -- I will put it another way, did you  
12 during the course of the meetings that you had with Frank  
13 Connolly before the publication of this article tell Frank  
14 Connolly that Mr. Murphy Jnr was present and participated  
15 in the handing over of the monies to Mr. Burke?

16 A. I can't answer yes or no to that.

1 447 Q. You don't --

18 A. I can't.

1 448 Q. All right. Well let's just move on to the next paragraph  
20 in the same article. It reads "This man has also made --  
21 that's you, Mr. Gogarty -- "has also made serious  
22 allegations against a representative of his former  
23 employers who he claims made threatening phone calls to his  
24 north Dublin home. He claims that the Gardai subsequently  
25 interviewed the caller who admitted making the threatening  
26 phone calls. However no file was sent to the DPP by the  
27 investigating Gardai and the caller was never charged with  
28 any offence."

29 .

30 Now, there can't be any doubt in the world but that the  
31 person being referred to there was Joseph Murphy Jnr?

32 A. That's correct.

449 Q. There's also equally no doubt in the course of these

2 meetings you had with Mr. Connolly you mentioned Mr. Joseph

3 Murphy Jnr specifically, isn't that right?

4 A. That's correct.

450 Q. And you described to Mr. Connolly in some detail the call

6 which Mr. Murphy had made to your home in June of 1994,

7 isn't that right?

8 A. That's correct.

451 Q. And the failure of the Guards to prosecute him or send a

10 file to the DPP?

11 A. That's correct.

1 452 Q. And it's in that context and that context only that Mr.

13 Murphy Jnr is referred to in the course of that article by

14 Mr. Connolly, isn't that right?

15 A. That's correct, yes.

1 453 Q. Well now I have to suggest to you that again it follows as

17 surely as night follows day that you did not tell Mr.

18 Connolly in those earlier meetings that Mr. Murphy Jnr was

19 a participant in the payments to Raymond Burke.

20 A. That's not necessarily true at all.

2 454 Q. That doesn't follow. Well I suggest to you --

22 A. Because I had several meetings with Mr. Connolly and I

23 admit, I admit that it was drip fed but I am admitting

24 because as time went by, talking to these people, their

25 main interest and I think they would accept that, their

26 main interest was that there was far more, what would I

27 call it, interest in the planning corruption than in the

28 equally criminal conduct of fraud and conspiracy to fraud

29 and threatening and intimidation and I think they will

30 admit that when they come to the box. That's for them to

31 say, I can't speak for them.

3 455 Q. Mr. Gogarty, let me put it to you very bluntly. If what

1 you are saying, if what you have said to this Tribunal  
2 about Mr. Murphy Jnr was true, you would have said it to  
3 Mr. Connolly when you first met him in 1996.

4 A. Not necessarily, in the context of what was happening  
5 there.

456 Q. I see.

7 A. Let's be clear about it because I was under a cloud,  
8 continuing cloud of threats and intimidation, the whole lot  
9 of it, I was under continuing threats.

1 457 Q. Let's just look at another section of this article. The  
11 article continues about the questions from Deputy Tommy  
12 Broughan and so on and then the last two paragraphs reads  
13 as follows "The client also claimed" -- and that's you Mr.  
14 Gogarty -- "that gunshots were fired through the front  
15 window of his north Dublin home causing £2,000 in damage  
16 and that family cars were damaged. No arrests were ever  
17 made, the threats and intimidation followed court  
18 proceedings during which alleged fraud corruption and  
19 breach... Former employers."

20 .

21 Did you tell Mr. Connolly in order to sustain your  
22 complaints against the Murphys that your cars had been  
23 maliciously damaged and gunshots had been fired through  
24 your home?

25 A. I have already given you reports that I reported to the  
26 Guards.

2 458 Q. And you told him these matters so in the hope and  
28 expectation that he would publish them, isn't that right?

29 A. Well that's not necessarily correct. I will tell you that  
30 I was under extreme pressure and there's no doubt about it,  
31 once I had started talking to the media, the media were  
32 after me to give them more details, even if it was on a

1 drip feed basis because it was the corruption and planning  
2 corruption was more sensational than equally criminal  
3 conduct of a fraud or conspiracy to defraud and threats and  
4 intimidation.

459 Q. You see I suggest to you, Mr. Gogarty --

6 A. The circumstances.

460 Q. I suggest to you, Mr. Gogarty, that you furnished this  
8 information to Mr. Connolly which was seriously misleading  
9 as a result of your obsession and pursuit of Mr. Joseph  
10 Murphy Jnr.

11 A. I don't accept that but I tell you the thing is I have told  
12 the truth. I have come in here to try and tell the truth  
13 and I am leaving it to the Tribunal to determine me as a  
14 liar and blackguard and inventorist, I am leaving it with  
15 the Tribunal and I will take my medicine.

1 461 Q. All right, let's move on to the next article which is  
17 published a week later on the 7th April, again written by  
18 Mr. Connolly. (Document handed to witness.) Now, do you  
19 want an opportunity to read it. Shall I --  
20 .

21 CHAIRMAN: If you would be kind enough.

22 A. Well there's two people mentioned in it.

23 .

2 462 Q. MR. COONEY: Have you finished reading the article?

25 A. I have, I have scanned it over.

2 463 Q. The first thing I want to ask you, did you have a meeting  
27 with Mr. Connolly between the date of the publication of  
28 the first article and the date of publication of that  
29 article? It was only a week.

30 A. I am not sure. It could have been by telephone, you know.

3 464 Q. It could have been by telephone but you had some contact?

32 A. Oh yes, yes.

465 Q. Do you recall from your face to face meetings with Mr.

2 Connolly whether or not he took notes of what you said?

3 A. I didn't think he was taking notes in that sense because I

4 used to tell him and my understanding was that he would

5 clear it with Kevin Neary because my instructions to Mr.

6 Neary and I think that would be accepted later on, that he

7 was dealing with the press and that while I probably, I

8 tended to shoot my mouth off a bit, that I would order him

9 to clear it with Mr. Neary, you know.

1 466 Q. But just did he take notes?

11 A. I presume he would, oh yes and maybe what do you call it,

12 tapes or whatever you call it, I don't know.

1 467 Q. So can we take it that when he contacted you by telephone

14 in the interval between these, the publication of these two

15 articles, he would have noted down what you were saying?

16 A. I would have noted down?

1 468 Q. He would have noted down.

18 A. Yes.

1 469 Q. As a matter of course?

20 A. Yes.

2 470 Q. Let's just turn to the fourth paragraph of this article,

22 that's the last full paragraph on the first column on the

23 left-hand side. I will read this to you "Former company

24 executive has alleged that he was present in June 1989 when

25 £40,000 was handed to the politician by a director of his

26 company and that a further £40,000 was paid over by a

27 property developer just days before a general election."

28 .

29 So that's a different account from the account that was

30 published the week before, isn't that right?

31 A. I suppose you could say that. I could also say, you see,

32 again and of course you will be telling I shouldn't be

1 doing the circumstances and the context, that I think Mr.  
2 Connolly but it's left to him to come in, that he himself  
3 and the Sunday Business Post were for years previously been  
4 investigating Burke.

471 Q. Well that's not the question I have asked you.

6 A. I am trying to put the context --

472 Q. Mr. Chairman, I don't know if Mr. Burke is represented here

8 today --

9 A. It turned out that --

10 .

11 CHAIRMAN: Mr. Gogarty, you are going outside the ambit of  
12 the answer to the question.

13 A. Sorry.

14 .

1 473 Q. MR. COONEY: Mr. Gogarty, this was a different version

16 compared to what had been published the Sunday before,

17 isn't that right?

18 A. It would appear to be something different.

1 474 Q. Had you corrected the previous version during the course of

20 the telephone conversation that you had with Mr. Connolly?

21 A. It appears -- well, correcting or expanding on it, you

22 know.

2 475 Q. Well you see in the first version, the person who is being

24 quoted and that was you said that he personally gave the

25 money to the politician. In this version, you have now

26 told Mr. Connolly that you were present when £40,000 was

27 handed over to the politician by a director of this

28 company, isn't that right? They are two quite different

29 versions.

30 A. I don't know what was in Frank Connolly's mind or how much

31 of his notes he was using because he could be referring to

32 the earlier one as well and putting the two together.

476 Q. All right. Well let's go on. The article continues "The  
2 payment was in return for the promised rezoning of hundreds  
3 of acres of land in Dublin which was owned by the  
4 company. Present at the meeting in the politician's house  
5 were three directors of the company, including the man who  
6 had made the allegations" -- that's you of course -- "the  
7 property develop developer and the politician, according to  
8 the former executive who has said he is prepared to  
9 re-state his allegations in open court."

10 .  
11 Now here Mr. Connolly is quoting what you told him, isn't  
12 that right?

13 A. Yes.

1 477 Q. And present on that occasion according to your account was  
15 the politician we now know to be Mr. Burke and the  
16 developer we now know to be Mr. Michael Bailey and three  
17 directors of the company which now know to be JMSE.

18 A. That's right.

1 478 Q. You told Mr. Connolly there were three directors present?

20 A. That's right.

2 479 Q. That's not what you have told this Tribunal, is that  
22 correct?

23 A. No, but also I corrected that with Mr. Connolly and I  
24 think --

2 480 Q. Indeed you did but you told Mr. Connolly and we know this  
26 from his Statement of Evidence you alleged to him, although  
27 he didn't publish this at that time, was the three  
28 directors present were you, Mr. Murphy Junior and Frank  
29 Reynolds?

30 A. Yes.

3 481 Q. You told Mr. Connolly Mr. Reynolds was there, isn't that  
32 right?

1 A. Oh yes I did.

482 Q. Why did you say that?

3 A. Sure I think I have told the court, that I have told you it  
4 was Frank Reynolds and Junior set up the meeting first of  
5 all, with Mr. Bailey and Frank Reynolds assured me that he  
6 was going to go along and up to the last minute I took it  
7 that he was going along and for some reason, I think I have  
8 told the Tribunal, either wittingly or unwittingly, he said  
9 he was caught up in company business and couldn't come at  
10 the last minute and I think that's what was in my head.

1 483 Q. Mr. Gogarty --

12 A. And I corrected it at the earliest possible opportunity.

1 484 Q. Well, I will come to that in a moment. Mr. Gogarty, you  
14 gave this account to Mr. Connolly in 1996, that's seven  
15 years after the events which you describe had occurred,  
16 isn't that right?

17 A. That's correct, that's right.

1 485 Q. You presumably had never been present or paid cash to a  
19 politician in your life, certainly nothing like the sum of  
20 30,000, £40,000?

21 A. No, that's right.

2 486 Q. That is an unique event which would stick in your mind  
23 forever?

24 A. That's right.

2 487 Q. As would the circumstances?

26 A. That's right, that's right.

2 488 Q. Now, I suggest it was no mistake on your part that you  
28 deliberately and with malice of forethought put Mr.  
29 Reynolds in Mr. Burke's house on that day.

30 A. Well you are suggesting it, I am only telling you what I  
31 recollect and I corrected it as soon as I could, I believe.

3 489 Q. You see I suggest to you that is not a fact that you would



1 have forgotten or overlooked, that you deliberately and  
2 with your own purposes put Mr. Reynolds present in Mr.  
3 Burke's house when you were talking to Mr. Connolly about  
4 it, isn't that right?

5 A. That's your suggestion first and I never did anything like  
6 that deliberately. I tell you I corrected it and I am on  
7 oath now.

490 Q. All right. We know from Mr. Connolly's Statement of  
9 Evidence that he says that you corrected it at a later  
10 stage but what Mr. Connolly doesn't tell the Tribunal is  
11 when this correction occurred and this is of some  
12 significance because of what appears in other newspapers  
13 articles so you tell the Tribunal as best your memory  
14 permits you when did you correct this misleading statement  
15 about Frank Reynolds?

16 A. Afterwards, sometime afterwards.

1 491 Q. Ah come on, Mr. Gogarty, don't treat us like that. Of  
18 course it occurred afterwards, I asked you when.

19 A. I can't tell you the date but it's shortly afterwards.

2 492 Q. Come on now, Mr. Gogarty, you had one of the most serious  
21 allegations about a man whom you had the friendliest  
22 relations in JMSE, you had put him right in the centre of  
23 an act of corruption, you corrected it and you can't tell  
24 us when you corrected that and --

25 A. Shortly afterwards, I am telling you.

2 493 Q. How long afterwards?

27 A. I couldn't tell you.

2 494 Q. Was it the same year?

29 A. It was of course.

3 495 Q. Sometime in 1996, was it?

31 A. I say so, yes.

3 496 Q. How did the correction come about?

1 A. Well I said, I tell you, I was going, for want of a better  
2 word, being chased by Mr. Connolly because he was on to a  
3 newsworthy item and he was wanting further details. As I  
4 told you, his paper was investigating politicians for years  
5 before that, there was a very big debate going on over  
6 years before I ever became involved between himself and the  
7 Burke and the Burke dynasty and it was in that context it  
8 was being expanded over the time.

497 Q. Tell me this, on the Sunday that this article appeared --

10 A. I beg your pardon?

1 498 Q. On the Sunday when this article appeared, Mr. Gogarty, did  
12 you go to the newsagent's shop and buy the Sunday Business  
13 Post?

14 A. I wouldn't personally have done it, somebody in the house  
15 bought it.

1 499 Q. You read the article?

17 A. I read the article.

1 500 Q. And you saw what was written in the article?

19 A. That's right.

2 501 Q. Did you not get on the telephone immediately to Mr. Frank  
21 Connolly and say there is a mistake there which could  
22 reflect adversely on a former colleague and workmate of  
23 mine?

24 A. Maybe that's what I did.

2 502 Q. Well did you do it?

26 A. I did it sometime afterwards, yes.

2 503 Q. Did you do it then?

28 A. I did it sometime afterwards, it could have been then, it  
29 could have been afterwards.

3 504 Q. It might have been the following day, Monday, 8th April, is  
31 that right?

32 A. I can't go any further, I know according to you I am an

1 awful liar but I can't go further, I am on oath here and I  
2 am telling you what I did.

505 Q. I know you are on oath, we all appreciate that, I am just  
4 asking you did you on the following day at the first  
5 opportunity?

6 A. I wouldn't say it was the following day.

506 Q. To correct it was an apparent and obvious injustice to your  
8 former --

9 A. I wouldn't say it was the following day.

1 507 Q. Was it that week?

11 A. I couldn't say.

1 508 Q. Was it that month?

13 A. I couldn't say. I know that through that period, I was  
14 going through a traumatic life time.

1 509 Q. You were putting other people through a traumatic time as  
16 well.

17 A. Yes, and you don't tell me what my feelings were. You  
18 wouldn't have a clue.

1 510 Q. I have to put it to you, Mr. Gogarty, as an act of common  
20 decency and honesty, you should have corrected that mistake  
21 at the first opportunity and rang Mr. Connolly and told him  
22 he had misinterpreted or you had misled him when you said  
23 there were three directors.

24 A. I believe I did my best to correct it.

25 .

26 CHAIRMAN: On that note, we will conclude the proceedings  
27 for the day. May I remind, draw attention to the  
28 etiquette in relation to witnesses under  
29 cross-examination. Thank you very much. Tomorrow  
30 morning, 10 o'clock.

31

32 THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,

00084

1 FRIDAY, 19TH FEBRUARY 1999 AT 10 A.M.

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